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CONSULTATIVE MEETING OF FOREIGN MINISTERS OF THE AMERICAN REPUBLICS

FINAL ACT [1]

The Governments of the American Republics, desirous of having their respective Foreign Ministers or their substitutes meet for the purpose of consultation under the agreements adopted at the Inter-American Conference for the Maintenance of Peace held at Buenos Aires in 1936, and the Eighth International Conference of American States, which met at Lima in 1938, appointed the delegations hereinafter listed in the order of precedence as determined by lot, who assembled in the City of Panamá from September 23 to October 3, 1939, on invitation of the Government of the Republic of Panamá.

MEXICO

His Excellency General Eduardo Hay, Secretary of Foreign Affairs
His Excellency Alfonso Rosenzweig Diaz
Mr. Anselmo Mena
Mr. Antonio Espinosa de los Monteros, Financial Adviser

ECUADOR

His Excellency Dr. Julio Tobar Donoso, Minister of Foreign Affairs
His Excellency Dr. Antonio Quevedo
His Excellency Dr. Eduardo Salazar
His Excellency Miguel Angel de Ycaza
His Excellency Victor Hugo Escala
Mr. Luis Eduardo Laso, Financial Attaché
Mr. Cesar Espinosa, Secretary

CUBA

His Excellency Dr. Miguel Angel Campa, Secretary of State
His Excellency Amadeo Lopez Castro
His Excellency Dr. Pedro Martinez Fraga
His Excellency Dr. Emilio Nunez Portuondo
Dr. Ramiro Guerra, Technical Adviser
Dr. Gonzalo Guell, Secretary General
Mr. A. Bolet y Cremoleda, Attaché
Mr. Leandro Garcia, Press Officer
Mr. Francisco C. Bedrinana, Attaché
Mr. Valentin Riva Patterson, Attaché

[1] Department of State Bulletin, Oct. 7, 1939, Vol. I, No. 15, p. 321.

COSTA RICA

His Excellency Tobias Zuniga Montufar Secretary of Foreign Affairs
His Excellency Enrique Fonseca Zuniga
His Excellency Raul Gurdian
His Excellency Modesto Martinez
Hon. Alvaro Zuniga Quijano, Private Secretary to the Secretary of Foreign Affairs

PERU

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Mr. Fernando Fuchs, Financial Adviser
Dr. Luis Alvarado, Legal Adviser
Mr. Juan Chavez Dartnell, Commercial Adviser
Miss Rosina Vega Castro, Secretary

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Mr. Juan Brin, Jr., Secretary

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His Excellency Dr. Hugo V. de Pena
Dr. Jose A. Mora Otero, Adviser

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Mr. Jose Augusto Padilla, Secretary

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His Excellency Joselin de la Maza, Delegate
His Excellency Benjamin Cohen, Delegate
His Excellency Cayetano Vigar, Delegate
His Excellency Luis Malaquias Concha, Adviser
Mr. Rodrigo Gonzalez, Adviser
Mr. Javier Urrutia, Assistant Secretary

COLOMBIA

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His Excellency Dr. Esteban Jaramillo, Delegate
His Excellency Alberto Bayon, Economic Adviser

Dr. Guillermo Torres Garcia, Commercial Adviser
Dr. Gayetano Besanour, Legal Adviser
Mr. Daniel Jaramillo, Secretary

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His Excellency Dr. Mario Briceno Iragorry, Delegate
Mr. Delfin E. Paez, Secretary
Dr. Victor Manuel Rivas, Secretary

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His Excellency Dr. Luis A. Podesta, Delegate
Dr. Luis Mariano Zuberbuhler, Secretary General
Dr. Mario Lassaga, Secretary
Mr. Juan Carlos Goyeneche, Secretary

GUATEMALA

His Excellency Carlos Salazar, Secretary of Foreign Affairs
His Excellency Alfonso Carrillo

PANAMÁ

His Excellency Dr. Narciso Garay, Secretary of Foreign Affairs and Communications
His Excellency Dr. E. Fernandez Jaen, Financial Adviser
His Excellency Ernesto Mendez, Economic Adviser
His Excellency Dr. Augusto S. Boyd, Adviser
His Excellency Belisario Porras, Jr., Adviser
Dr. Eduardo Chiari, Legal Adviser
Mr. Tomas H. Jacome, Economic Adviser
Mr. Octavio A. Vallarino, Economic Adviser
Mr. Pedro Moreno Correa, Secretary

NICARAGUA

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His Excellency Dr. Jose Jesus Sanchez, Delegate
His Excellency Adolfo Altamirano Browne, Delegate
Mr. Emilio Ortega, Secretary

DOMINICAN REPUBLIC

His Excellency Jose Ramon Rodriguez, Representative of the Secretary of Foreign Affairs
Mr. Nicolas Vega, Economic Adviser

BRAZIL

His Excellency Carlos Martins, Representative of the Minister of Foreign Affairs
His Excellency Manuel Cesar de Goes Monteiro, Delegate
Mr. Abelardo Bretanha Bueno do Prado, Adviser
Mr. Jacome Baggi de Berenguer Cesar, Adviser
Mr. Hugo Gouthier de Oliveira Gondim, Secretary
Mr. Fernando Saboia de Medeiros, Secretary
Mr. Guilherme Correia Araujo, Attaché

BOLIVIA

His Excellency Dr. Alberto Ostria Gutierrez, Minister of Foreign Affairs
His Excellency Luis F. Guachalla
Mr. Franklin Antezana, Financial Adviser
Mr. Gustavo Medeiros Querejazu, Secretary

UNITED STATES OF AMERICA

His Excellency Sumner Welles, Representative of the Secretary of State
His Excellency Edwin C. Wilson, Adviser
Dr. Herbert Feis, Adviser
Dr. Warren Kelchner, Adviser and Secretary General
Dr. Marjorie M. Whiteman, Legal Adviser
Mr. Sheldon Thomas, Press Officer
Mr. Paul G. Daniels, Private Secretary to the Representative of the Secretary of State
Miss Anna L. Clarkson, Assistant to the Representative of the Secretary of State

HAITI

His Excellency Léon Laleau, Secretary of Foreign Affairs and Public Works
His Excellency Raúl Lizzaire, Adviser
Mr. Max H. Dorsinville, Secretary
Mr. Manuel J. Castillo

EL SALVADOR

His Excellency Dr. Patrocinio Guzmán Trigueros, Representative of the Minister of Foreign Affairs.
Mr. Jorge Argueta Cea, Secretary

The President of the Republic of Panamá, His Excellency Dr. Juan Demóstenes Arosemena, officially inaugurated the meeting at a plenary session held on September 23, 1939, at 5:00 p.m., in the National Institute. The Secretary of Foreign Affairs and Communications of Panamá, His Excellency Dr. Narciso Garay, acted as provisional president, and Mr. Jeptha B. Duncan acted as secretary general.

His Excellency Dr. Narciso Garay was elected permanent president of the meeting at the plenary session held on September 25, 1939. The regulations of the meeting were approved at a preliminary session held on September 23, 1939.

In accordance with the regulations, a committee on credentials was appointed composed of His Excellency Dr. Carlos Salazar (Guatemala) as Chairman, His Excellency Dr. Alberto Ostria Gutiérrez (Bolivia) and His Excellency Dr. Patrocinio Guzmán Trigueros (El Salvador).

A committee on coördination was also appointed composed of His Excellency Dr. Manuel César de Goes Monteiro (Brazil), His Excellency Dr. Julio Tobar Donoso (Ecuador), His Excellency Honorable León Laleau (Haiti) and the Honorable Sumner Welles (United States of America).

The program of the meeting was approved by the Governing Board of the Pan American Union on September 12, 1939.

As a result of the consultations, the meeting of Foreign Ministers of the American Republics approved the following declarations and resolutions:

I

Texts of Decrees and Regulations on Neutrality

For the purpose of keeping each other fully informed regarding the measures of neutrality taken by the American Republics during the continuance of the existing European conflict,

The Meeting of the Foreign Ministers of the American Republics

Resolves:

To recommend that the Governments of the American Republics transmit to the Pan American Union the texts of all the decrees and regulations approved by each country relative to its neutrality in the present conflict in order that the Union may communicate copies of these documents to the various governments for their information. (Approved October 3, 1939.)

II

Tribute to the Liberator

Whereas:

The place of meeting of the First Pan-American Congress of 1826 is close to the monument erected to the glory of the Liberator, by the gratitude of the 21 Republics represented at this Consultative Meeting; and

For reasons, the enumeration of which are superfluous, it is fitting that there be held a joint public manifestation of respect by this Meeting in memory of Simon Bolívar.

The Meeting of the Foreign Ministers of the American Republics

Resolves:

To go in a body to the statue of the Liberator, immediately after the closing session of the meeting, to deposit a floral wreath as an expression of the

sentiment of gratitude of the 21 Republics of our continent. Those attending shall be invited afterwards to visit the Sala Capitular where the First Pan American Congress, conceived by the Liberator, was held. (Approved October 3, 1939.)

III

Economic Cooperation

The Meeting of the Foreign Ministers of the American Republics

Resolves:

1. In view of the present circumstances, to declare that today it is more desirable and necessary than ever to establish a close and sincere coöperation between the American Republics in order that they may protect their economic and financial structure, maintain their fiscal equilibrium, safeguard the stability of their currencies, promote and expand their industries, intensify their agriculture and develop their commerce.

2. To create an Inter-American Financial and Economic Advisory Committee consisting of twenty-one (21) experts in economic problems, one for each of the American Republics, which shall be installed in Washington, D. C., not later than November 15, 1939, and which shall have the following functions:

(a) To consider any problem of monetary relationships, foreign exchange management, or balance of international payment situation, which may be presented to it by the Government of any of the American Republics, and to offer to that Government whatever recommendations it deems desirable.

(b) To study the most practical and satisfactory means of obtaining the stability of the monetary and commercial relationships between the American Republics.

(c) To provide, with the coöperation of the Pan American Union, the means for the interchange of information between the Governments of the American Republics with reference to the matters mentioned in the two preceding subparagraphs, as well as for the exchange of production, foreign trade, financial and monetary statistics, custom legislation and other reports on inter-American commerce.

(d) To study and propose to the Governments the most effective measures for mutual coöperation to lessen or offset any dislocations which may arise in the trade of the American Republics and to maintain trade among themselves, and as far as possible, their trade with the rest of the world, which may be affected by the present war, on the basis of those liberal principles of international trade approved at the Seventh and Eighth International Conferences of American States and the Inter-American Conference for the Maintenance of Peace. These principles shall be retained as the goal of their long-term commercial policies in order that the world shall not lack a basis of world-wide international trade in which all may participate after world order and peace may be restored.

(e) To study the possibility of establishing a custom truce, of reducing custom duties on the typical commodities which an American country may offer in the market of another American country, of abolishing or modifying import licenses on such commodities, as well as all the other obstacles which render difficult the interchange of products between the said countries, of adopting a uniform principle of equality of treatment, eliminating all discriminatory measures, and of giving ample facilities to salesmen traveling from an American country to another.

(f) To study the necessity of creating an inter-American institution which may render feasible and insure permanent financial coöperation between the treasuries, the central banks and analogous institutions of the American Republics, and propose the manner and conditions under which such an organization should be established and determine the matters with which it should deal.

(g) To study measures which tend to promote the importation and consumption of products of the American Republics, especially through the promotion of lower prices and better transportation and credit facilities.

(h) To study the usefulness and feasibility of organizing an Inter-American Commercial Institute to maintain the importers and exporters of the American Republics in contact with each other and to supply them with the necessary data for the promotion of inter-American trade.

(i) To study the possibility of establishing new industries and negotiating commercial treaties, especially for the interchange of the raw materials of each country.

(j) To study the possibility that silver be also one of the mediums for international payments.

The Inter-American Economic Advisory Committee shall communicate to the Governments the results of the studies made in each case and shall recommend the measures which it considers should be taken.

3. To recommend to the Governments of the American Republics:

(a) To take measures in accordance with their own respective legislation, with a view to avoiding increases of rates or premiums to an extent not justified by the special expenses and risks incurred because of the present state of war, by shipping companies which maintain transportation services between the countries of the continent, and marine insurance companies operating in their territories.

(b) To promote the negotiation of bilateral or multilateral agreements for the organization and maintenance of regular and connected steamship services between the countries of the continent in order to facilitate the direct traffic of passengers and cargoes. These agreements are to make special provisions for traveling salesmen and commercial samples.

(c) To study the possibility of reducing to a minimum consular fees on manifests of vessels in the above-mentioned services, so as to make possible

the shipment of reduced quantities of commodities which require rapid and special transportation.

(d) To study the possibility, in accordance with their legislation, of reducing to a minimum port, sanitary and other formalities applied to the traffic of merchandise between the American Republics.

4. To recommend to the Governments that they do everything possible to abolish obstacles to the free inter-American movement of capital.

5. To recommend to the Governments that, when deemed necessary, they negotiate agreements in accordance with the circumstances and legislation of each country, with a view to the establishment of bases that would make feasible and secure the granting of inter-American credits which may serve to intensify the interchange of products as well as for the development of natural resources.

6. To request the governments of the most industrialized countries of the continent to do whatever is possible, within their legal faculties and circumstances, to prevent excessive and unjustified increases in the prices of manufactured articles destined for export.

7. To recommend that the American Governments promote the negotiation of arrangements, in accordance with their legislation and within their possibilities, with a view to obtaining ample facilities with regard to the treatment of re-embarkation of merchandise sold or acquired by American countries, detained at the present moment on board merchant vessels of countries at war which are unable to transport it to its original destination.

8. To recommend to the respective Governments that they preserve in a reciprocal and generous form the legitimate principle of freedom of communications and transit through the ports and territories of the American nations, in accordance with the legislation and international agreements in force.

9. To recommend that countries bordering on each other hold, among themselves, meetings of their Ministers of Foreign Affairs, or of their Ministers of Finance, or of special plenipotentiaries, in the capital of one of them, in order to arrive at agreements for solving common problems of a financial, fiscal, or economic character, in conformity with the relevant general principles of commercial policy approved at recent Inter-American Conferences.

10. To make every effort in order to complete their respective sections of the Pan American Highway and to recommend to the countries which have ratified the Buenos Aires Convention that they designate as soon as possible one or more experts to expedite the fulfillment of the recommendations of the Third Pan American Highway Congress. (Approved October 3, 1939.)

IV

Joint Declaration of Continental Solidarity

The Governments of the American Republics, represented at this first meeting of their Foreign Ministers,

Firmly united by the democratic spirit which is the basis of their institutions,

Desirous of strengthening on this occasion the solidarity which is the outgrowth of that spirit, and

Desirous of preserving peace in the American Continent and of promoting its reëstablishment throughout the world,

Declare:

1. That they reaffirm the declaration of solidarity among the nations of this hemisphere, proclaimed at the Eighth International Conference of American States at Lima in 1938;

2. That they will endeavor with all the appropriate spiritual and material means at their disposal to maintain and strengthen peace and harmony among the Republics of America, as an indispensable requirement to the effective fulfillment of the duty that devolves upon them in the world-wide historical development of civilization and culture;

3. That these principles are free from any selfish purpose of isolation, but are rather inspired by a deep sense of universal coöperation, which impels these nations to express the most fervent wishes for the cessation of the deplorable state of war which today exists in some countries of Europe, to the grave danger of the most cherished spiritual, moral and economic interests of humanity, and for the reëstablishment of peace throughout the world—a peace not based on violence, but on justice and law. (Approved October 3, 1939.)

V

General Declaration of Neutrality of the American Republics

Whereas:

As proclaimed in the Declaration of Lima, "The peoples of America have achieved spiritual unity through the similarity of their republican institutions, their unshakeable will for peace, their profound sentiment of humanity and tolerance, and through their absolute adherence to the principles of international law, of the equal sovereignty of states and of individual liberty without religious or racial prejudices";

This acknowledged spiritual unity presupposes common and solidary attitudes with reference to situations of force which, as in the case of the present European war, may threaten the security of the sovereign rights of the American Republics;

The attitude assumed by the American Republics has served to demon-

strate that it is their unanimous intention not to become involved in the European conflict; and

It is desirable to state the standards of conduct, which, in conformity with international law and their respective internal legislation, the American Republics propose to follow, in order to maintain their status as neutral states and fulfill their neutral duties, as well as require the recognition of the rights inherent in such a status,

The Meeting of the Foreign Ministers of the American Republics

Resolves:

1. To reaffirm the status of general neutrality of the American Republics, it being left to each one of them to regulate in their individual and sovereign capacities the manner in which they are to give it concrete application.

2. To have their rights and status as neutrals fully respected and observed by all belligerents and by all persons who may be acting for or on behalf of or in the interest of the belligerents.

3. To declare that with regard to their status as neutrals, there exist certain standards recognized by the American Republics applicable in these circumstances and that in accordance with them they:

(a) Shall prevent their respective terrestrial, maritime and aerial territories from being utilized as bases of belligerent operations.

(b) Shall prevent, in accordance with their internal legislations, the inhabitants of their territories from engaging in activities capable of affecting the neutral status of the American Republics.

(c) Shall prevent on their respective territories the enlistment of persons to serve in the military, naval, or air forces of the belligerents; the retaining or inducing of persons to go beyond their respective shores for the purpose of taking part in belligerent operations; the setting on foot of any military, naval or aerial expedition in the interests of the belligerents; the fitting out, arming, or augmenting of the forces or armament of any ship or vessel to be employed in the service of one of the belligerents, to cruise or commit hostilities against another belligerent, or its nationals or property; the establishment by the belligerents or their agents of radio stations in the terrestrial or maritime territory of the American Republics, or the utilization of such stations to communicate with the governments or armed forces of the belligerents.

(d) May determine, with regard to belligerent warships, that not more than three at a time be admitted in their own ports or waters and in any case they shall not be allowed to remain for more than twenty-four hours. Vessels engaged exclusively in scientific, religious or philanthropic missions may be exempted from this provision, as well as those which arrive in distress.

(e) Shall require all belligerent vessels and aircraft seeking the hospitality of areas under their jurisdiction and control to respect strictly their neutral status and to observe their respective laws and regulations and the rules

of international law pertaining to the rights and duties of neutrals and belligerents; and in the event that difficulties are experienced in enforcing the observance of and respect for their rights, the case, if so requested, shall thereupon become a subject of consultation between them.

(f) Shall regard as a contravention of their neutrality any flight by the military aircraft of a belligerent state over their own territory. With respect to nonmilitary aircraft, they shall adopt the following measures: such aircraft shall fly only with the permission of the competent authority; all aircraft, regardless of nationality, shall follow routes determined by the said authorities; their commanders or pilots shall declare the place of departure, the stops to be made and their destination; they shall be allowed to use radiotelegraphy only to determine their route and flying conditions, utilizing for this purpose the national language, without code, only the standard abbreviations being allowed; the competent authorities may require aircraft to carry a co-pilot or a radio operator for purposes of control. Belligerent military aircraft transported on board warships shall not leave these vessels while in the waters of the American Republics; belligerent military aircraft landing in the territory of an American Republic shall be interned with their crews until the cessation of hostilities, except in cases in which the landing is made because of proven distress. There shall be exempted from the application of these rules cases in which there exist conventions to the contrary.

(g) May submit belligerent merchant vessels, as well as their passengers, documents and cargo, to inspection in their own ports; the respective consular agent shall certify as to the ports of call and destination as well as to the fact that the voyage is undertaken solely for purposes of commercial interchange. They may also supply fuel to such vessels in amounts sufficient for the voyage to a port of supply and call in another American Republic, except in the case of a direct voyage to another continent, in which circumstance they may supply the necessary amount of fuel. Should it be proven that these vessels have supplied belligerent warships with fuel, they shall be considered as auxiliary transports.

(h) May concentrate and place a guard on board belligerent merchant vessels which have sought asylum in their waters, and may intern those which have made false declarations as to their destinations, as well as those which have taken an unjustified or excessive time in their voyage, or have adopted the distinctive signs of warships.

(i) Shall consider as lawful the transfer of the flag of a merchant vessel to that of any American Republic provided such transfer is made in good faith, without agreement for resale to the vendor, and that it takes place in the waters of an American Republic.

(j) Shall not assimilate to warships belligerent armed merchant vessels if they do not carry more than four six-inch guns mounted on the stern, and their lateral decks are not reinforced, and if, in the judgment of the local

authorities, there do not exist other circumstances which reveal that the merchant vessels can be used for offensive purposes. They may require of the said vessels, in order to enter their ports, to deposit explosives and munitions in such places as the local authorities may determine.

(k) May exclude belligerent submarines from the waters adjacent to their territories or admit them under the condition that they conform to the regulations which each country may prescribe.

4. In the spirit of this declaration the Governments of the American Republics shall maintain close contact with a view to making uniform so far as possible, the enforcement of their neutrality and to safeguarding it in defense of their fundamental rights.

5. With a view to studying and formulating recommendations with respect to the problems of neutrality, in the light of experience and changing circumstances, there shall be established for the duration of the European war, an Inter-American Neutrality Committee, composed of seven experts in international law, who shall be designated by the Governing Board of the Pan American Union before November 1, 1939. The recommendations of the Committee shall be transmitted, through the Pan American Union, to the Governments of the American Republics. (Approved October 3, 1939.)

VI

Humanization of War

Whereas:

The American nations have unanimously condemned war as a means of settling international controversies;

These states have adhered to non-American pacts and have signed agreements in the various International Conferences of American States with a view to mitigating the unnecessary horrors of war and prescribing the methods by which they are occasioned; and

The peoples of the American Republics have given traditional proof of their humanitarian feelings, lending effective aid to the victims of war and disaster,

The Meeting of the Foreign Ministers of the American Republics

Resolves.

1. To make a fervent appeal to the European countries now in conflict to arrive at a settlement of their controversies through pacific means, on the essential basis of justice and law and not on the dictates of force; and that they abstain from:

(a) The use of poisonous gases and other chemical methods of warfare which produce irreparable and permanent injuries;

(b) Bombarding open cities, objects and places without military value, whether from land, sea or air;

(c) Employing inflammable liquids;

(d) Poisoning waters and disseminating bacteria;

(e) Employing offensive weapons which increase the suffering of the wounded;

(f) Imposing unnecessarily rigorous measures upon civilian populations;

(g) Sinking merchant vessels without having first placed the passengers, crew and ship's papers in a place of safety.

2. To condemn in all armed conflict the unrestricted application of measures causing unnecessary and inhuman suffering in injuring the enemy.

3. To express the hope that the National Red Cross Societies in the American Republics broaden the scope of their humanitarian work for the relief of the victims of the present European war, and that the Governments lend every faculty and support to their respective Red Cross Societies in carrying forward this work. (Approved October 3, 1939.)

VII

Contraband of War

Whereas:

The Convention on Maritime Neutrality, signed at Habana on February 20, 1928, recites in the preamble thereof that "international solidarity requires that the liberty of commerce should be always respected, avoiding as far as possible unnecessary burdens for the neutrals";

Article 16 of the same convention stipulates that "Credits that a neutral state may give to facilitate the sale or exportation of its food products and raw materials" are not included within the prohibition contained in that article against the granting of loans or the opening of credits to a belligerent by a neutral state during the duration of war;

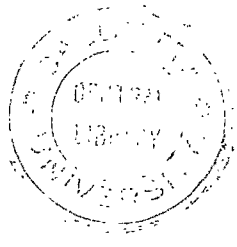
The American Republics cannot remain indifferent to measures that restrict their normal commerce with belligerents in foodstuffs, clothing and raw materials for peace-time industries;

Elemental humanitarian considerations impel the American Republics to deplore the deprivation of civilian populations of the normal means of subsistence;

The American Republics, in accordance with a lofty conception of neutrality, consider unjustified the limitations which may be placed upon their legitimate commerce and trade with the neutral countries of other continents; and

The American Republics consider that it is indispensable to avoid, in accordance with their domestic laws, the effects of measures within their respective territories and in detriment to their sovereignty, which the belligerent governments may take to restrict the freedom of trade of their nationals in neutral countries,

The Meeting of the Foreign Ministers of the American Republics



Resolves.

1. To register its opposition to the placing of foodstuffs and clothing intended for civilian populations, not destined directly or indirectly for the use of a belligerent government or its armed forces, on lists of contraband.

2. To declare that they do not consider contrary to neutrality the granting of credits to belligerents for the acquisition of merchandise mentioned in the foregoing paragraph, whenever permitted by the domestic legislation of the neutral countries.

3. That the Neutrality Committee, established by another agreement of this meeting, shall undertake the immediate study of whatever concerns the commercial situation of raw materials, minerals, plant or animal, produced by the American Republics, and shall recommend such individual or collective action that should be taken by the governments for the purpose of reducing the unfavorable effects on the free movement of these commodities, of contraband declarations and other economic measures of the belligerent countries. (Approved October 3, 1939.)

VIII

Coördination of Police and Judicial Measures for the Maintenance of Neutrality

Whereas:

In order better to safeguard the neutrality of the American Republics to whatever extent it may be affected by unlawful activities undertaken by individuals, whether nationals or aliens, residing therein, with the purpose of benefiting any foreign belligerent state, it is desirable to coördinate the preventive or repressive action of the police and judicial authorities, especially with respect to the rapid and frequent interchange of information, as well as the surveillance, apprehension and custody of suspected individuals;

On February 29, 1920, there was signed in Buenos Aires an agreement between various American Republics, for the purpose of coördinating police activity, in so far as it relates, in a general way, to common crimes; and

The procedure of extradition, complementing the objective in the judicial and repressive aspect, should be strengthened among the American Republics through adequate rules and by extending it to all of them,

The Meeting of Foreign Ministers of the American Republics

Resolves

1. That action be taken, as soon as possible, through an exchange of views between the Foreign Offices, or through an Inter-American Conference, for the formulation between themselves of coördinated rules and procedure of a useful, opportune and effective manner, that will facilitate the action of the police and judicial authorities of the respective countries in preventing

or repressing unlawful activities that individuals, whether they be nationals or aliens, may attempt in favor of a foreign belligerent state.

2. That the necessary steps be taken for the ratification, as soon as possible, of the Convention on Extradition signed at the Seventh International Conference of American States, held at Montevideo in 1933. (Approved October 3, 1939.)

IX

Maintenance of International Activities in Accordance With Christian Morality

The Governments of the American Republics, represented at the First Meeting of the Foreign Ministers of the American Republics

Declare:

1. That they reaffirm their faith in the principles of Christian civilization, and their confidence that, in the light of these principles, the influence of international law will be strengthened among nations;

2. That they condemn attempts to place international relations and the conduct of warfare outside the realm of morality;

3. That they reject all methods for the solution of controversies between nations based on force, on the violation of treaties, or on their unilateral abrogation;

4. That they consider the violation of the neutrality or the invasion of weaker nations as an unjustifiable measure in the conduct and success of war; and

5. That they undertake to protest against any warlike act which does not conform to international law and the dictates of justice. (Approved October 3, 1939.)

X

Recommendation to the International Conference of Jurists

Whereas:

The project of convention for the creation of an Association of American Nations, presented to the Eighth International Conference of American States by the Republic of Colombia and the Dominican Republic in accordance with the request of the Inter-American Conference for the Maintenance of Peace, was referred for study to the International Conference of American Jurists,

The Meeting of the Foreign Ministers of the American Republics

Resolves:

To recommend to the International Conference of American Jurists that, in studying the said project of convention for the creation of an Association of American Nations, it take into consideration, in so far as possible, the declarations, resolutions and agreements of this Meeting of Consultation. (Approved October 3, 1939.)

XI

PROTECTION OF THE INTER-AMERICAN IDEAL AGAINST SUBVERSIVE IDEOLOGIES

WHEREAS:

On more than one occasion the American Republics have affirmed their adherence to the democratic ideal which prevails in this hemisphere;

This ideal may be endangered by the action of foreign ideologies inspired in diametrically opposite principles; and

It is advisable, consequently, to protect the integrity of this ideal through the adoption of appropriate measures,

The Meeting of the Foreign Ministers of the American Republics

Resolves

To recommend to the Governments represented therein, that they take the necessary measures to eradicate from the Americas the spread of doctrines that tend to place in jeopardy the common Inter-American democratic ideal. (Approved October 3, 1939.)

XII

FUTURE MEETING OF FOREIGN MINISTERS

WHEREAS:

On the supposition that the war may continue for a more or less extended period, and the state of emergency which now exists may, a year hence, have become accentuated or that there may exist an abnormal post-war situation which may require consideration,

The Meeting of the Foreign Ministers of the American Republics

Resolves

To suggest to the respective Governments the desirability of having their Ministers of Foreign Affairs meet in the city of Habana, capital of the Republic of Cuba, on October 1, 1940, without prejudice to an earlier meeting if this should be found necessary (Approved October 3, 1939.)

XIII

ORGANIZATION OF THE ECONOMIC ADVISORY COMMITTEE

The Meeting of the Foreign Ministers of the American Republics

Resolves:

To request the Governments of the American Republics to designate as soon as possible the experts who shall constitute the Inter-American Financial and Economic Advisory Committee, the organization of which shall be entrusted to the Pan American Union. (Approved October 3, 1939.)

XIV

Declaration of Panamá

The Governments of the American Republics meeting at Panamá, have solemnly ratified their neutral status in the conflict which is disrupting the peace of Europe, but the present war may lead to unexpected results which may affect the fundamental interests of America and there can be no justification for the interests of the belligerents to prevail over the rights of neutrals causing disturbances and suffering to nations which by their neutrality in the conflict and their distance from the scene of events, should not be burdened with its fatal and painful consequences.

During the World War of 1914–1918 the Governments of Argentina, Brazil, Chile, Colombia, Ecuador and Peru advanced, or supported, individual proposals providing in principle a declaration by the American Republics that the belligerent nations must refrain from committing hostile acts within a reasonable distance from their shores.

The nature of the present conflagration, in spite of its already lamentable proportions, would not justify any obstruction to inter-American communications which, engendered by important interests, call for adequate protection. This fact requires the demarcation of a zone of security including all the normal maritime routes of communication and trade between the countries of America.

To this end it is essential as a measure of necessity to adopt immediately provisions based on the above-mentioned precedents for the safeguarding of such interests, in order to avoid a repetition of the damages and sufferings sustained by the American nations and by their citizens in the war of 1914–1918.

There is no doubt that the Governments of the American Republics must foresee those dangers and as a measure of self-protection insist that the waters to a reasonable distance from their coasts shall remain free from the commission of hostile acts or from the undertaking of belligerent activities by nations engaged in a war in which the said governments are not involved.

For these reasons the Governments of the American Republics Resolve and Hereby Declare:

1. As a measure of continental self-protection, the American Republics, so long as they maintain their neutrality, are as of inherent right entitled to have those waters adjacent to the American continent, which they regard as of primary concern and direct utility in their relations, free from the commission of any hostile act by any non-American belligerent nation, whether such hostile act be attempted or made from land, sea or air.

Such waters shall be defined as follows. All waters comprised within the limits set forth hereafter except the territorial waters of Canada and of the undisputed colonies and possessions of European countries within these limits:

Beginning at the terminus of the United States–Canada boundary in Passamaquoddy Bay, in 44° 46′ 36″ north latitude, and 66° 54′ 11″ west longitude;

Thence due east along the parallel 44° 46′ 36″ to a point 60° west of Greenwich;

Thence due south to a point in 20° north latitude;

Thence by a rhumb line to a point in 5° north latitude, 24° west longitude;

Thence due south to a point in 20° south latitude;

Thence by a rhumb line to a point in 58° south latitude, 57° west longitude;

Thence due west to a point in 80° west longitude;

Thence by a rhumb line to a point on the equator in 97° west longitude;

Thence by a rhumb line to a point in 15° north latitude, 120° west longitude;

Thence by a rhumb line to a point in 48° 29′ 38″ north latitude, 136° west longitude;

Thence due east to the Pacific terminus of the United States–Canada boundary in the Strait of Juan de Fuca.

2. The Governments of the American Republics agree that they will endeavor, through joint representation to such belligerents as may now or in the future be engaged in hostilities, to secure the compliance by them with the provisions of this Declaration, without prejudice to the exercise of the individual rights of each state inherent in their sovereignty.

3. The Governments of the American Republics further declare that whenever they consider it necessary they will consult together to determine upon the measures which they may individually or collectively undertake in order to secure the observance of the provisions of this Declaration.

4. The American Republics, during the existence of a state of war in which they themselves are not involved may undertake, whenever they may determine that the need therefore exists, to patrol, either individually or collectively, as may be agreed upon by common consent, and in so far as the means and resources of each may permit, the waters adjacent to their coasts within the area above defined. (Approved October 3, 1939.)

Declaration of the Brazilian Government on Continental Waters

The sovereignty of the American Continent is founded on the inviolate bases of consultation, non-intervention, conciliation, arbitration, and above all, on the pacific sentiment of the American nations, who are enemies of war and friends of peace.

We do not have and we will not have anything to fear from each other in America; on the contrary, we have in each other, on land, sea and air, the assurance of security for each and all of the nations of America.

Continental security against overseas aggression must be obtained on sounder bases.

It is on the seas that surround us that lies the future fate of our sovereignties, because the protection of American soil will not be possible, as in the past, without the security of the surrounding seas.

The sea outside territorial waters, only three miles from our coast, from our cities and even from our capitals, not only is not ours, but in it we are at the mercy of any action contrary to the free and peaceful expansion of our sovereignty, of our continental relations and even of the maritime communications between ports of the same country.

To the defense of the continental territorial integrity, we must add, therefore, as an inseparable part of an American political whole, the security of continental waters.

The meeting at Panamá must request and receive from all the belligerents engaged in the war, in which no American Republic is involved, the assurance that the countries in conflict will abstain from any belligerent act or activity on the sea, within the limit of the waters adjacent to the American Continent considered as being useful or of direct and primary interest to the American Republics.

We expect the belligerent nations, and those which in the future may take part in the present war, to observe and respect this Declaration which will be made in Panamá as a complement of the Monroe Doctrine and of the Declarations of Buenos Aires and Lima.

We believe that the principle of continental waters will not affect the sovereignty of other nations, but rather that it will protect the sovereignty of the American countries and will favor the peaceful relations of all nations.

Our continent furthermore, has a right to reduce the effects of the war, by preventing its conflicts from being brought near our shores to perturb our tranquillity, threatening to compromise or complicate our neutral status.

Brazil does not make and never has made an issue of formulas and words, but the idea that it suggested with regard to continental waters will be defended by Brazil, because it considers the principle useful for its existence and that of the other Republics of America.

These are the bases of the Brazilian vote and of the attitude of its delegates to the meeting of Panamá.

Declaration of the Argentine Delegation

The Argentine Delegation declares that in waters adjacent to the South American Continent, in that territorial extent of coasts which, in the zone defined as free from any hostile act, corresponds to the Argentine Republic, it does not recognize the existence of colonies or possessions of European countries, and adds that it specifically reserves and maintains intact the legitimate titles and rights of the Argentine Republic to islands such as the Malvinas, as well as to any other Argentine territory located within or beyond the said zone.

DECLARATION OF THE MINISTER OF FOREIGN AFFAIRS OF GUATEMALA

The declaration and reservation of His Excellency, Dr. Melo, of Argentina, impels me to present, on behalf of Guatemala, a like declaration and reservation, because the controversy of Guatemala with the British Empire is similar and my silence might be interpreted as an abandonment of the legitimate rights now under discussion.

XV

TRANSMISSION OF DECLARATION OF PANAMÁ

The Meeting of the Foreign Ministers of the American Republics

Resolve:

To request the President of the Republic of Panamá, His Excellency Dr. Juan Demostenes Arosemena, to transmit, in the name of all the Republics of America, the Declaration of Panamá to the belligerent governments involved in the European war. (Approved October 3, 1939.)

XVI

TRANSFER OF SOVEREIGNTY OF GEOGRAPHIC REGIONS OF THE AMERICAS HELD BY NON-AMERICAN STATES

The Meeting of the Foreign Ministers of the American Republics

Resolve:

1. That in case any geographic region of America subject to the jurisdiction of any non-American state should be obliged to change its sovereignty and there should result therefrom a danger to the security of the American Continent, a consultative meeting such as the one now being held will be convoked with the urgency that the case may require.

2. It is understood that this resolution shall not apply to a change of status resulting from the settlement of questions now pending between non-American states and states of the continent. (Approved October 3, 1939.)

In witness whereof the following Ministers of Foreign Affairs or their representatives sign the present final Act, and hereunto affix their respective seals.

Done at Panamá on the 3rd day of October 1939, in the English, Spanish, Portuguese and French languages, the respective texts to be deposited in the archives of the Pan American Union. The Secretary General of the Meeting shall hand these texts to the Ministry of Foreign Affairs of Panamá for transmittal to the Pan American Union.

NEUTRALITY OF THE UNITED STATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION [1]

[No. 2348—September 5, 1939]

Whereas a state of war unhappily exists between Germany and France; Poland; and the United Kingdom, India, Australia and New Zealand [The Union of South Africa and Canada were included by Proclamations Nos. 2353 and 2359 of Sept. 8 and 10, 1939];[2]

And Whereas the United States is on terms of friendship and amity with the contending Powers, and with the persons inhabiting their several dominions;

And Whereas there are nationals of the United States residing within the territories or dominions of each of the said belligerents, and carrying on commerce, trade, or other business or pursuits therein;

And Whereas there are nationals of each of the said belligerents residing within the territory or jurisdiction of the United States, and carrying on commerce, trade or other business or pursuits therein;

And Whereas the laws and treaties of the United States, without interfering with the free expression of opinion and sympathy, nevertheless impose upon all persons who may be within their territory and jurisdiction the duty of an impartial neutrality during the existence of the contest;

And Whereas it is the duty of a neutral government not to permit or suffer the making of its territory or territorial waters subservient to the purposes of war;

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, in order to preserve the neutrality of the United States and of its citizens and of persons within its territory and jurisdiction, and to enforce its laws and treaties, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from any violation of the same, do hereby declare and proclaim that by certain provisions of the Act approved on the 4th day of March, A.D. 1909, commonly known as the "Penal Code of the United States" and of the Act approved on the 15th day of June, A.D. 1917, the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to wit:

1. Accepting and exercising a commission to serve one of the said belligerents by land or by sea against an opposing belligerent.

[1] Department of State Bulletin, Sept. 9, 1939, Vol. I, No. 11, p. 203; Federal Register, Sept. 6, 1939, Vol. 4, No. 171, p. 3809.

[2] Dept. of State Bulletins, Sept. 9 and 16, 1939, Vol. I, No. 11, p. 208, No. 12, p. 246; Fed. Reg., Sept. 9 and 12, 1939, Vol. 4, No. 174, p. 3851, No. 175, p. 3857.

2. Enlisting or entering into the service of a belligerent as a soldier, or as a marine, or seaman on board of any ship of war, letter of marque, or privateer.

3. Hiring or retaining another person to enlist or enter himself in the service of a belligerent as a soldier, or as a marine, or seaman on board of any ship of war, letter of marque, or privateer.

4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

5. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be entered into service as aforesaid.

6. Retaining another person to go beyond the limits or jurisdiction of the United States to be enlisted as aforesaid.

7. Retaining another person to go beyond the limits or jurisdiction of the United States with intent to be entered into service as aforesaid. (But the said Act of the 4th day of March, A.D. 1909, as amended by the Act of the 15th day of June, A.D. 1917, is not to be construed to extend to a citizen or subject of a belligerent who, being transiently within the jurisdiction of the United States, shall, on board of any ship of war, which, at the time of its arrival within the jurisdiction of the United States, was fitted and equipped as such ship of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the jurisdiction of the United States, to enlist or enter himself to serve such belligerent on board such ship of war, if the United States shall then be at peace with such belligerent.)

8. Fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of one of the said belligerents to cruise, or commit hostilities against the subjects, citizens, or property of an opposing belligerent.

9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

10. Increasing or augmenting, or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the jurisdiction of the United States was a ship of war, cruiser, or armed vessel in the service of a belligerent, or belonging to a national thereof, by adding to the number of guns of such vessel, or by changing those on board of her for guns of a larger caliber or by the addition thereto of any equipment solely applicable to war.

11. Knowingly beginning or setting on foot or providing or preparing a means for or furnishing the money for, or taking part in, any military or naval expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territory or dominion of a belligerent.

12. Despatching from the United States, or any place subject to the jurisdiction thereof, any vessel, domestic or foreign, which is about to carry to a warship, tender, or supply ship of a belligerent any fuel, arms, ammunition, men, supplies, despatches, or information shipped or received on board within the jurisdiction of the United States.

13. Despatching from the United States, or any place subject to the jurisdiction thereof, any armed vessel owned wholly or in part by American citizens, or any vessel, domestic or foreign (other than one which has entered the jurisdiction of the United States as a public vessel), which is manifestly built for warlike purposes or has been converted or adapted from a private vessel to one suitable for warlike use, and which is to be employed to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of a belligerent nation, or which will be sold or delivered to a belligerent nation, or to an agent, officer, or citizen thereof, within the jurisdiction of the United States, or, having left that jurisdiction, upon the high seas.

14. Despatching from the United States, or any place subject to the jurisdiction thereof, any vessel built, armed, or equipped as a ship of war, or converted from a private vessel into a ship of war (other than one which has entered the jurisdiction of the United States as a public vessel), with any intent or under any agreement or contract, written or oral, that such vessel shall be delivered to a belligerent nation, or to any agent, officer, or citizen of such nation, or where there is reasonable cause to believe that the said vessel shall or will be employed in the service of such belligerent nation after its departure from the jurisdiction of the United States.

15. Taking, or attempting or conspiring to take, or authorizing the taking of any vessel out of port or from the jurisdiction of the United States in violation of the said Act of the 15th day of June, A.D. 1917, as set forth in the preceding paragraphs numbered 11 to 14 inclusive.

16. Leaving or attempting to leave the jurisdiction of the United States by a person belonging to the armed land or naval forces of a belligerent who shall have been interned within the jurisdiction of the United States in accordance with the law of nations, or leaving or attempting to leave the limits of internment in which freedom of movement has been allowed, without permission from the proper official of the United States in charge, or wilfully overstaying a leave of absence granted by such official.

17. Aiding or enticing any interned person to escape or attempt to escape from the jurisdiction of the United States, or from the limits of internment prescribed.

And I do hereby further declare and proclaim that any frequenting and use of the waters within the territorial jurisdiction of the United States by the vessels of a belligerent, whether public ships or privateers for the purpose of preparing for hostile operations, or as posts of observation upon the ships of war or privateers or merchant vessels of an opposing belligerent must be regarded as unfriendly and offensive, and in violation of that neutrality

which it is the determination of this Government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided, I further proclaim and declare that from and after the fifth day of September instant, and so long as this proclamation shall be in effect, no ship of war or privateer of any belligerent shall be permitted to make use of any port, harbor, roadstead, or waters subject to the jurisdiction of the United States as a station or place of resort for any warlike purpose or for the purpose of obtaining warlike equipment; no privateer of a belligerent shall be permitted to depart from any port, harbor, roadstead, or waters subject to the jurisdiction of the United States; and no ship of war of a belligerent shall be permitted to sail out of or leave any port, harbor, roadstead, or waters subject to the jurisdiction of the United States from which a vessel of an opposing belligerent (whether the same shall be a ship of war or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last mentioned vessel beyond the jurisdiction of the United States.

If any ship of war of a belligerent shall, after the time this notification takes effect, be found in, or shall enter any port, harbor, roadstead, or waters subject to the jurisdiction of the United States, such vessel shall not be permitted to remain in such port, harbor, roadstead, or waters more than twenty-four hours, except in case of stress of weather, or for delay in receiving supplies or repairs, or when detained by the United States; in any of which cases the authorities of the port, or of the nearest port (as the case may be), shall require her to put to sea as soon as the cause of the delay is at an end, unless within the preceding twenty-four hours a vessel, whether ship of war or merchant ship of an opposing belligerent, shall have departed therefrom, in which case the time limited for the departure of such ship of war shall be extended so far as may be necessary to secure an interval of not less than twenty-four hours between such departure and that of any ship of war or merchant ship of an opposing belligerent which may have previously quit the same port, harbor, roadstead, or waters.

Vessels used exclusively for scientific, religious, or philanthropic purposes are exempted from the foregoing provisions as to the length of time ships of war may remain in the ports, harbors, roadsteads, or waters subject to the jurisdiction of the United States.

The maximum number of ships of war belonging to a belligerent and its allies which may be in one of the ports, harbors, or roadsteads subject to the jurisdiction of the United States simultaneously shall be three.

When ships of war of opposing belligerents are present simultaneously in the same port, harbor, roadstead, or waters, subject to the jurisdiction of the United States, the one entering first shall depart first, unless she is in such condition as to warrant extending her stay. In any case the ship which arrived later has the right to notify the other through the competent local authority that within twenty-four hours she will leave such port, harbor,

roadstead, or waters, the one first entering, however, having the right to depart within that time. If the one first entering leaves, the notifying ship must observe the prescribed interval of twenty-four hours. If a delay beyond twenty-four hours from the time of arrival is granted, the termination of the cause of delay will be considered the time of arrival in deciding the right of priority in departing.

Vessels of a belligerent shall not be permitted to depart successively from any port, harbor, roadstead, or waters subject to the jurisdiction of the United States at such intervals as will delay the departure of a ship of war of an opposing belligerent from such ports, harbors, roadsteads, or waters for more than twenty-four hours beyond her desired time of sailing. If, however, the departure of several ships of war and merchant ships of opposing belligerents from the same port, harbor, roadstead, or waters is involved, the order of their departure therefrom shall be so arranged as to afford the opportunity of leaving alternately to the vessels of the opposing belligerents, and to cause the least detention consistent with the objects of this proclamation.

All belligerent vessels shall refrain from use of their radio and signal apparatus while in the harbors, ports, roadsteads, or waters subject to the jurisdiction of the United States, except for calls of distress and communications connected with safe navigation or arrangements for the arrival of the vessel within, or departure from, such harbors, ports, roadsteads, or waters, or passage through such waters; provided that such communications will not be of direct material aid to the belligerent in the conduct of military operations against an opposing belligerent. The radio of belligerent merchant vessels may be sealed by the authorities of the United States, and such seals shall not be broken within the jurisdiction of the United States except by proper authority of the United States.

No ship of war of a belligerent shall be permitted, while in any port, harbor, roadstead, or waters subject to the jurisdiction of the United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew in amounts necessary to bring such supplies to her peace standard, and except such fuel, lubricants, and feed water only as may be sufficient, with that already on board, to carry such vessel, if without any sail power, to the nearest port of her own country; or in case a vessel is rigged to go under sail, and may also be propelled by machinery, then half the quantity of fuel, lubricants, and feed water which she would be entitled to have on board, if dependent upon propelling machinery alone, and no fuel, lubricants, or feed water shall be again supplied to any such ship of war in the same or any other port, harbor, roadstead, or waters subject to the jurisdiction of the United States until after the expiration of three months from the time when such fuel, lubricants and feed water may have been last supplied to her within waters subject to the jurisdiction of the United States. The amounts of fuel, lubricants, and feed water allowable under the

above provisions shall be based on the economical speed of the vessel, plus an allowance of thirty per centum for eventualities.

No ship of war of a belligerent shall be permitted, while in any port, harbor, roadstead, or waters subject to the jurisdiction of the United States, to make repairs beyond those that are essential to render the vessel seaworthy and which in no degree constitute an increase in her military strength. Repairs shall be made without delay. Damages which are found to have been produced by the enemy's fire shall in no case be repaired.

No ship of war of a belligerent shall effect repairs or receive fuel, lubricants, feed water, or provisions within the jurisdiction of the United States without written authorization of the proper authorities of the United States. Before such authorization will be issued the commander of the vessel shall furnish to such authorities a written declaration, duly signed by such commander, stating the date, port, and amounts of supplies last received in the jurisdiction of the United States, the amounts of fuel, lubricants, feed water, and provisions on board, the port to which the vessel is proceeding, the economical speed of the vessel, the rate of consumption of fuel, lubricants, and feed water at such speed, and the amount of each class of supplies desired. If repairs are desired, a similar declaration shall be furnished stating the cause of the damage and the nature of the repairs. In either case, a certificate shall be included to the effect that the desired services are in accord with the rules of the United States in that behalf.

No agency of the United States Government shall, directly or indirectly, provide supplies nor effect repairs to a belligerent ship of war.

No vessel of a belligerent shall exercise the right of search within the waters under the jurisdiction of the United States, nor shall prizes be taken by belligerent vessels within such waters Subject to any applicable treaty provisions in force, prizes captured by belligerent vessels shall not enter any port, harbor, roadstead, or waters under the jurisdiction of the United States except in case of unseaworthiness, stress of weather, or want of fuel or provisions; when the cause has disappeared, the prize must leave immediately, and if a prize captured by a belligerent vessel enters any port, harbor, roadstead, or waters subject to the jurisdiction of the United States for any other reason than on account of unseaworthiness, stress of weather, or want of fuel or provisions, or fails to leave as soon as the circumstances which justified the entrance are at an end, the prize with its officers and crew will be released and the prize crew will be interned. A belligerent prize court can not be set up on territory subject to the jurisdiction of the United States or on a vessel in the ports, harbors, roadsteads, or waters subject to the jurisdiction of the United States.

The provisions of this proclamation pertaining to ships of war shall apply equally to any vessel operating under public control for hostile or military purposes.

And I do further declare and proclaim that the statutes and the treaties of

the United States and the law of nations alike require that no person, within the territory and jurisdiction of the United States, shall take part, directly or indirectly, in the said war, but shall remain at peace with all of the said belligerents, and shall maintain a strict and impartial neutrality.

And I do further declare and proclaim that the provisions of this proclamation shall apply to the Canal Zone except in so far as such provisions may be specifically modified by a proclamation or proclamations issued for the Canal Zone.

And I do hereby enjoin all nationals of the United States, and all persons residing or being within the territory or jurisdiction of the United States, to observe the laws thereof, and to commit no act contrary to the provisions of the said statutes or treaties or in violation of the law of nations in that behalf.

And I do hereby give notice that all nationals of the United States and others who may claim the protection of this Government, who may misconduct themselves in the premises, will do so at their peril, and that they can in no wise obtain any protection from the Government of the United States against the consequences of their misconduct.

This proclamation shall continue in full force and effect unless and until modified, revoked or otherwise terminated, pursuant to law.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fifth day of September in the year of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

By the President: FRANKLIN D. ROOSEVELT

CORDELL HULL
Secretary of State

STATEMENT BY THE DEPARTMENT OF STATE

September 5, 1939 [1]

In order to avoid any confusion regarding the two proclamations relating to this country's neutrality which are being issued today, it should be thoroughly understood that the general neutrality proclamation which is being issued first has to do with our activities as a neutral under the rules and procedure of international law, and those of our domestic statutes in harmony therewith. This proclamation would have been made according to customary usage even if we had not on the statute books the Act of May 1, 1937. This proclamation is in general conformity with neutrality proclamations issued by the United States during previous international conflicts.

Another proclamation to be issued today is based upon the Act of May 1,

[1] Department of State Bulletin, Sept. 9, 1939, Vol. I, No. 11, p. 203.

1937. Several proposals for modifying that Act were made during the last session of Congress and are still pending. It was generally understood in Congress at the close of the last session that final action on these proposed modifications would be taken at the next session of Congress.

Note by the Editor

The following proclamations and regulations which were issued pursuant to the Act of May 1, 1937 (printed in this JOURNAL, Supplement, Vol. 31 (1937), p. 147), were revoked or replaced by proclamations and regulations issued pursuant to the Act of November 4, 1939 (printed *infra*, p. 44):

Proclamation No. 2349 of Sept. 5, 1939, making effective the provisions of the Act of May 1, 1937, concerning the export of arms, ammunition, and implements of war to the belligerents (*Department of State Bulletin*, Sept. 9, 1939, Vol. I, No. 11, p. 208; *Federal Register*, Sept. 7, 1939, Vol. 4, No. 172, p. 3819), with supplementary proclamations Nos. 2354 and 2360 of Sept. 8 and 10, including South Africa and Canada within Proclamation No. 2349 (*Dept. State Bulletins*, Sept. 9, 1939, Vol. I, No 11, p. 211, Sept. 16, 1939, No. 12, p. 246; *Fed. Reg.*, Sept. 9 and 12, 1939, Vol. 4, No. 174, p. 3852, No. 175, p. 3857).

Regulations under Sec. 9 concerning travel by American citizens on vessels of belligerent states, Sept. 5, 1939, with supplementary regulations of Sept. 9 and 11 extending the regulations to South Africa and Canada. (*Department of State Bulletins*, Sept. 9, 1939, Vol. I, No. 11, pp. 219, 220, No. 12, p. 247; *Federal Register*, Sept. 8, 1939, Vol. 4, No. 173, p. 3838, Sept. 12, 1939, Vol. 4, No. 175, p. 3882, Sept. 13, 1939, Vol. 4, No. 176, p. 3891.) Statement by the Secretary of State, Oct. 2, 1939 (*Dept. State Bulletin*, Oct. 7, 1939, Vol. I, No. 15, p. 345).

Rules and Regulations governing the solicitation and collection of contributions for use in belligerent countries, Sept. 5, 1939, with supplementary rules and regulations of Sept. 9 and 11 including South Africa and Canada. (*Department of State Bulletins*, Sept. 1939, Vol. I, No. 11, pp. 222, 224, No. 12, p. 248; *Federal Register*, Sept. 8, 1939, Vol. 4, No. 173, p. 3839, Sept. 12, 1939, Vol. 4, No. 175, p. 3882, Sept. 13, 1939, Vol. 4, No. 176, p. 3891.) Additional rules and regulations, Oct. 4, 1939 (*Dept. State Bulletin*, Oct. 7, 1939, Vol. I, No. 15, p. 343; *Fed. Reg.*, Oct. 5, 1939, Vol. 4, No. 192, p. 4150.)

Regulation concerning credits to belligerents, Sept. 6, 1939, with supplementary regulations of Sept. 11 including Canada and South Africa. (*Department of State Bulletins*, Sept. 9, 1939, Vol. I, No. 11, p. 221, No. 12, p. 247 *Federal Register*, Sept. 9, 1939, Vol. 4, No. 174, p. 3852, Sept. 13, 1939, Vol. 4, No. 176, p. 3890.)

Proclamation No. 2371 concerning use of ports or territorial waters of the United States by submarines of foreign belligerent states, Oct. 18, 1939. (*Department of State Bulletin*, Oct. 21, 1939, Vol I, No. 17, p. 396; *Federal Register*, Oct. 20, 1939, Vol. 4, No. 203, p. 4295.)

REGULATIONS CONCERNING NEUTRALITY IN THE CANAL ZONE

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION [1]

[No. 2350—September 5, 1939]

Whereas a proclamation having been issued by me on the fifth day of September instant declaring the neutrality of the United States of America

[1] Federal Register, Sept. 7, 1939, Vol. 4, No. 172, p. 3821; Department of State Bulletin, Sept. 9, 1939, Vol. I, No. 11, p. 213.

in the war now existing between Germany and France; Poland; the United Kingdom, India, Australia and New Zealand;

And Whereas the provisions of the said proclamation apply to the Canal Zone except in so far as such provisions may be modified by a proclamation issued for the Canal Zone;

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America do declare and proclaim that, from and after the fifth day of September instant, the said proclamation issued by me on the fifth day of September instant, in its application to the Canal Zone, is hereby modified as follows:

1. The limit of twenty-four hours prescribed by the above proclamation, with certain exceptions, as the maximum time a belligerent ship of war may remain within the jurisdiction of the United States shall apply to the total time such ship of war may remain in all the waters of the Canal Zone, except that the time required to transit the Canal shall be in addition to the prescribed twenty-four hours. Such transit shall be effected with the least possible delay in accordance with the Canal regulations in force, and only with such intermission as may result from the necessities of the service.

2. The maximum number of ships of war belonging to a belligerent and its allies which may be simultaneously in either terminal port and the terminal waters adjacent to such port shall be three. The maximum number of such vessels in all the waters of the Canal Zone simultaneously, including those in transit through the Canal, shall be six.

3. Belligerent ships of war, not carrying aircraft, departing from the jurisdiction of the Canal Zone from one of the terminal ports shall not be required to observe the prescribed interval of time between such departure and the departure from such jurisdiction of a vessel of an opposing belligerent from the other terminal port.

4. The time of original arrival of vessels within the jurisdiction of the Canal Zone, whether or not they transit the Canal, shall be used as the time of arrival in deciding the right of priority, between vessels of opposing belligerents, in departing from the jurisdiction of the Canal Zone.

5. If a belligerent ship of war which has left the waters of the Canal Zone, whether she has transited the Canal or not, returns within a period of one week after her departure, she shall lose all right of priority in departure from the Canal Zone, or in passage through the Canal, over vessels of an opposing belligerent which may enter those waters after her return and before the expiration of one week subsequent to her previous departure. In any such case, the time of departure of a vessel which has so returned shall be fixed by the Canal authorities, who may in so doing consider the wishes of the commander or master of a vessel or vessels of an opposing belligerent then present within the waters of the Canal Zone.

6. If it is wholly impossible, as determined by the Governor of the Panama Canal, for a belligerent ship of war to effect repairs through, or to obtain

fuel, lubricants, feed water, and provisions from, a private contractor within the Canal Zone or the Republic of Panama, the agencies of the United States administered by the Canal authorities may, in order to facilitate the operation of the Canal or its appurtenances, effect such repairs and furnish such supplies in accordance with the Canal regulations in force, but when repairs and supplies are so obtained they shall be limited to such repairs and such amounts of fuel, lubricants, feed water, and provisions, with that already on board, as may be necessary to enable the vessel to proceed to the nearest accessible port, not an enemy port, in the general direction of her voyage, at which she can obtain further repairs or supplies necessary for the continuation of the voyage. The amounts of fuel, lubricants, feed water, and provisions so received shall be deducted from the amounts otherwise allowed in ports, harbors, roadsteads, and waters subject to the jurisdiction of the United States, including the Canal Zone, during any time within a period of three months thereafter. No public vessel of a belligerent shall receive fuel or lubricants while within the territorial waters of the Canal Zone except under written authorization of the Canal authorities, specifying the amount of fuel and lubricants which may be received. Moreover, the repair facilities and docks belonging to the United States and administered by the Canal authorities shall not be used by a public vessel of a belligerent, except when necessary in case of actual distress, and then only upon the order of the Canal Authorities, and only to the degree necessary to render the vessel seaworthy. Any work authorized shall be done with the least possible delay.

7. In the Canal Zone, prizes shall be in all respects subject to the same rules as ships of war of the belligerents.

And I do further declare and proclaim that, from and after the fifth day of September instant, the following additional provisions shall be effective in the Canal Zone:

1. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the Canal Zone except when required by the Canal authorities, or in case of accidental hindrance of the transit. In such cases the Canal authorities shall be the judges of the necessity, and the transit shall be resumed with all dispatch.

2. No belligerent aircraft shall be navigated into, within, or through the air spaces above the territory or waters of the Canal Zone.

3. The enforcement of neutrality of the United States within the Canal Zone and administrative action in connection therewith shall be the responsibility of the Governor of the Panama Canal; and the military and naval forces stationed in the Canal Zone shall give him such assistance for this purpose as he may request; provided that, if an officer of the Army is designated to assume authority and jurisdiction over the operation of the Panama Canal as provided in Section 8 of Title 2 of the Canal Zone Code, such officer of the Army shall thereafter have such responsibility.

And I do further declare and proclaim that the provisions of this proclama-

tion and the provisions of the proclamation of the fifth day of September instant are in addition to the "Rules and Regulations for the Operation and Navigation of the Panama Canal and Approaches Thereto, including all Waters under its jurisdiction" prescribed by Executive Order No. 4314, of September 25, 1925, as amended.

This proclamation shall continue in full force and effect unless and until modified, revoked, or otherwise terminated pursuant to law.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fifth day of September, in the year of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

By the President:

CORDELL HULL
Secretary of State

FRANKLIN D. ROOSEVELT

EXECUTIVE ORDER [1]

PRESCRIBING REGULATIONS GOVERNING THE PASSAGE AND CONTROL OF VESSELS THROUGH THE PANAMA CANAL IN ANY WAR IN WHICH THE UNITED STATES IS A NEUTRAL

[*No. 8234—September 5, 1939*]

Whereas the treaties of the United States, in any war in which the United States is a neutral, impose on the United States certain obligations to both neutral and belligerent nations;

And Whereas the treaties of the United States, in any war in which the United States is a neutral, require that the United States exert all the vigilance within their power to carry out their obligations as a neutral;

And Whereas treaties of the United States require that the Panama Canal shall be free and open, on terms of entire equality, to the vessels of commerce and of war of all nations observing the rules laid down in Article 3 of the so-called Hay-Pauncefote treaty concluded between the United States and Great Britain, November 18, 1901;

Now, Therefore, by virtue of the authority vested in me by Section 5 of the Panama Canal Act, approved August 24, 1912 (Ch. 390, Sec. 5, 37 Stat. 562), as amended by the Act of July 5, 1932 (Ch. 425, 47 Stat. 578), I hereby prescribe the following regulations governing the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto, in any war in which the United States is a neutral;

1. Whenever considered necessary, in the opinion of the Governor of the Panama Canal, to prevent damage or injury to vessels or to prevent damage or injury to the Canal or its appurtenances, or to secure the observance of the

[1] Federal Register. Sept. 7, 1939, Vol. 4, No. 172, p. 3823; Department of State Bulletin, Sept. 9, 1939, Vol. I No. 11, p. 215.

rules, regulations, rights, or obligations of the United States, the Canal authorities may at any time, as a condition precedent to transit of the Canal, inspect any vessel, belligerent or neutral, other than a public vessel, including its crew and cargo, and, for and during the passage through the Canal, place armed guards thereon, and take full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by the Canal authorities to go or remain on board thereof during such passage.

2. A public vessel of a belligerent or neutral nation shall be permitted to pass through the Canal only after her commanding officer has given written assurance to the authorities of the Panama Canal that the rules, regulations, and treaties of the United States will be faithfully observed.

The foregoing regulations are in addition to the "Rules and Regulations for the Operation and Navigation of the Panama Canal and Approaches Thereto, including all Waters under its Jurisdiction" prescribed by Executive Order No. 4314 of September 25, 1925, as amended, and the provisions of proclamations and executive orders pertaining to the Canal Zone issued in conformity with the laws and treaties of the United States.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
September 5, 1939

EXECUTIVE ORDER[1]

REGULATIONS GOVERNING THE ENTRANCE OF FOREIGN AND DOMESTIC AIRCRAFT INTO THE CANAL ZONE, AND NAVIGATION THEREIN

[*No. 8251—September 12, 1939*]

By virtue of and pursuant to the authority vested in me by Section 14 of Title 2 of the Canal Zone Code, as amended by the Act of July 9, 1937, 50 Stat. 486 (U.S.C., Title 48, Sec. 1311a), I hereby prescribe the following regulations governing the entrance of foreign and domestic aircraft into the Canal Zone, and navigation of such aircraft within the Canal Zone.

SEC. 1. *Canal Zone set apart as military airspace reservation.* The airspace above the Canal Zone, including the territorial waters within the three-mile marine boundary at each end of the Canal, is hereby set apart as and declared to be a military airspace reservation, to be known as the "Canal Zone Military Airspace Reservation."

SEC. 2. *Unlawful navigation of aircraft in military airspace reservation.* It shall be unlawful to navigate any foreign or domestic aircraft into, within, or

[1] Federal Register, Sept. 14, 1939, Vol. 4, No. 177, p. 3899. A notice published by the Department of State Oct. 10, 1939, prescribed that applications of foreign aircraft under these regulations containing the data required therein "shall in each case be transmitted through the diplomatic mission of the country whose nationality the aircraft possess to the Secretary of State for appropriate disposition." (Department of State Bulletin, Oct. 14, 1939, Vol. I, No. 16, p. 379.)

through the Canal Zone Military Airspace Reservation otherwise than in conformity with this Executive order: *Provided, however*, that none of the provisions of this order shall apply to military, naval, or other public aircraft of the United States.

SEC. 3. *Authorization for entrance of aircraft into the Canal Zone Military Airspace Reservation, and navigation therein.* Aircraft, foreign or domestic, shall be navigated into, within, or through the Canal Zone Military Airspace Reservation only under and in compliance with an authorization granted after the effective date of this order (a) by the Civil Aeronautics Authority in the case of civil aircraft, and (b) by the Secretary of State in the case of all other aircraft. Such authorization shall be granted only after consultation with the Secretary of War, and shall be subject to the further rules and regulations contained in or issued under this order, as well as those applicable generally to the entrance of aircraft into, and their navigation within or through, the Canal Zone Military Airspace Reservation. Application for such authorization shall be made (a) to the Civil Aeronautics Authority for flights by domestic civil aircraft, and (b) to the Secretary of State for flights by all other aircraft. All applications shall, unless otherwise directed by the Secretary of State or the Civil Aeronautics Authority, so far as either has jurisdiction with respect to particular classes of flights under this order, and with the agreement of the Secretary of War, set forth (a) the name, nationality, and address of the owner and of the pilot of the aircraft, (b) the make, model, and type of aircraft and information as to the registration thereof, (c) the registration marks displayed on the aircraft, (d) the names and nationalities of all persons aboard the aircraft, including passengers and crew, (e) the itinerary of the flight, (f) the purpose of the flight, (g) the expected time of arrival and duration of the stop within the Canal Zone, and (h) a statement as to firearms and cameras if any, to be carried. In case any persons on board the aircraft, including passengers and crew, are in any way connected, either directly or indirectly, with the civil, military, or naval services of any foreign nation, in addition to designating such persons by name and nationality, the application shall contain a statement showing their connection with such service.

SEC. 4. *Aircraft operated by and transporting only citizens of the United States or its possessions.* Aircraft operated by and transporting only persons who are citizens of the United States or its possessions, for which authorization has been granted under provisions of this order to be navigated into, within, or through the Canal Zone Military Airspace Reservation, shall nevertheless not be so navigated into, within, or through such reservation unless the following conditions, or such of them as have not been specifically waived in each case as provided in Section 6 hereof, are complied with:

(a) Prior to departure from the last point of landing before reaching the Canal Zone, the person in responsible charge of the aircraft shall notify the Governor of The Panama Canal, hereinafter referred to as the "Governor",

preferably by radio, of the probable time of arrival and the cruising altitude and speed.

(b) Such aircraft shall enter the Canal Zone Military Airspace Reservation via the prescribed route for private aircraft, and shall follow said route to, and land at, the landing area designated by the Governor, and such aircraft shall not pass through the said airspace reservation without so landing therein.

(c) Immediately after landing in the Canal Zone, the pilot of the aircraft shall report to the Aeronautical Inspector of The Panama Canal for instructions, and shall observe the instructions received.

(d) All such aircraft shall have all cameras carried therein sealed before taking off from the last point of landing prior to arrival at the Canal Zone Military Airspace Reservation, and all such cameras must remain under seal while within the said reservation.

(e) Without the authorization of the Governor, no arms, ammunitions, or explosives, except small arms, shall be carried aboard such aircraft.

(f) While within the Canal Zone Military Airspace Reservation, all aircraft shall be navigated in conformity with instructions or authorization of the Governor.

SEC. 5. *Aircraft operated by or transporting persons who are not citizens of the United States or of its possessions.* Aircraft operated by or transporting persons who are not citizens of the United States or its possessions, for which authorization has been granted under provisions of this order to be navigated into, within, or through the Canal Zone Military Airspace Reservation, shall nevertheless not be so navigated into, within, or through said reservation unless the following conditions, or such of them as have not been specifically waived in each case as provided in Section 6 hereof, are complied with for each flight of such aircraft:

(a) The term "flight" as used herein shall signify one or a number of aircraft under the command of or in responsible charge of a single person.

(b) Not over twelve aircraft shall be included in one flight.

(c) Prior to departure from the last point of landing before reaching the Canal Zone, the commander or the person in responsible charge of the flight shall notify the Governor, preferably by radio, of the probable time of arrival and the cruising altitude and speed.

(d) The flight shall approach the Canal Zone following commercial air lanes to a rendezvous point, outside of the Canal Zone, designated by the Governor and announced by him to the Secretary of State or the Civil Aeronautics Authority.

(e) On approaching the Canal Zone, the flight shall be met at the rendezvous by an official escort of aircraft from the Canal Zone and shall be escorted from the rendezvous point via a route prescribed by the escorting aircraft to a landing area in the Canal Zone. All such aircraft entering the Canal Zone Military Airspace Reservation shall land in the Canal Zone at the landing

area designated by the Governor, and no aircraft shall pass through the said airspace reservation without so landing therein.

(f) Immediately after landing in the Canal Zone, the commander or the person in responsible charge of the flight shall report to the Aeronautical Inspector of The Panama Canal for instructions, and shall observe the instructions received.

(g) A similar procedure with escort shall be required in leaving the Canal Zone.

(h) Without the authorization of the Governor, no arms, ammunition, or explosives, except small arms, shall be carried aboard such aircraft.

(i) All such aircraft shall have all cameras carried therein sealed before taking off from the last point of landing prior to arrival at the Canal Zone Military Airspace Reservation, and all such cameras must remain under seal while within the said reservation.

(j) While within the Canal Zone Military Airspace Reservation, all aircraft shall be navigated in conformity with instructions or authorization of the Governor.

SEC. 6. *Waiver of application of certain sections of order.* The Secretary of State or the Civil Aeronautics Authority, so far as either has jurisdiction with respect to particular classes of flights under this order, and with the agreement of the Secretary of War, may waive the application of all or any part of the provisions of Sections 2, 3, and 4 of this order.

SEC. 7. *Authority of Governor to administer order and make detailed regulations.* Except as otherwise specifically provided herein, the provisions of this order shall be administered and enforced by the Governor, and the Governor is hereby authorized to make such detailed regulations as may be necessary to carry into effect the provisions of this order.

SEC. 8. *Punishment for violations.* Any person who shall violate any of the provisions of this order shall be punishable, as provided in Section 14 of Title 2 of the Canal Zone Code, *supra*, by a fine of not more than $500, or by imprisonment in jail for not more than one year, or by both.

SEC. 9. *Order subject to prior order and proclamation; revocation of prior orders and regulations.* The provisions of this order shall be administered subject to the provisions of Executive Order No. 8232 of September 5, 1939, entitled "Control of The Panama Canal and the Canal Zone," and the provisions of Proclamation No. 2350 of September 5, 1939,[1] entitled "Prescribing Regulations Concerning Neutrality in the Canal Zone." Executive Order No. 4971 of September 28, 1928, designating the Secretary of State to receive and pass upon all applications for the privilege of operating commercial aircraft between the Canal Zone and foreign countries, is hereby revoked; and all other Executive orders and all regulations of the Secretary of State are hereby revoked in so far as and to the extent that they are in conflict with this order.

[1] *Supra*, p. 28.

SEC. 10. *Effective date.* This order shall take effect ninety days after the date hereof.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
September 12, 1939.

EXECUTIVE ORDER [1]

AMENDMENT OF SECTION 6 OF EXECUTIVE ORDER NO. 8251 OF SEPTEMBER 12, 1939, PRESCRIBING REGULATIONS GOVERNING THE ENTRANCE OF FOREIGN AND DOMESTIC AIRCRAFT INTO THE CANAL ZONE, AND NAVIGATION THEREIN

[No. 8271—October 16, 1939]

By virtue of and pursuant to the authority vested in me by Section 14 of Title 2 of the Canal Zone Code, as amended by the Act of July 9, 1937, 50 Stat. 486 (U.S.C., Title 48, Sec. 1314), it is hereby ordered that Section 6 of Executive Order No. 8251 of September 12, 1939,[2] prescribing regulations governing the entrance of foreign and domestic aircraft into the Canal Zone, and navigation therein, be, and it is hereby, amended to read as follows:

"SEC. 6. *Waiver of application of certain sections of order.* The Secretary of State or the Civil Aeronautics Authority, so far as either has jurisdiction with respect to particular classes of flights under this order, and with the agreement of the Secretary of War, may waive the application of all or any part of the provisions of Sections 2, 3, 4 and 5 of this order."

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
October 16, 1939.

MESSAGE OF THE PRESIDENT TO THE CONGRESS [3]

[September 21, 1939]

TO THE CONGRESS OF THE UNITED STATES:

I have asked the Congress to reassemble in extraordinary session in order that it may consider and act on the amendment of certain legislation, which, in my best judgment, so alters the historic foreign policy of the United States that it impairs the peaceful relations of the United States with foreign nations.

At the outset I proceed on the assumption that every member of the Senate and of the House of Representatives, and every member of the executive branch of the Government, including the President and his associates, personally and officially, are equally and without reservation in favor of such measures as will protect the neutrality, the safety, and the integrity of our country and at the same time keep us out of war.

[1] Federal Register, Oct. 18, 1939, Vol. 4, No. 204, p. 4277. [2] *Supra*, p. 32.
[3] Department of State Bulletin, Sept. 23, 1939, Vol. I, No. 13, p. 275.

Because I am wholly willing to ascribe an honorable desire for peace to those who hold different views from my own as to what those measures should be, I trust that these gentlemen will be sufficiently generous to ascribe equally lofty purposes to those with whom they disagree. Let no man or group in any walk of life assume exclusive protectorate over the future well-being of America—because I conceive that regardless of party or section the mantle of peace and of patriotism is wide enough to cover us all. Let no group assume the exclusive label of the peace "bloc." We all belong to it.

I have at all times kept the Congress and the American people informed of events and trends in foreign affairs. I now review them in a spirit of understatement.

Since 1931 the use of force instead of the council table has constantly increased in the settlement of disputes between nations—except in the Western Hemisphere, where there has been only one war, now happily terminated.

During these years also the building up of vast armies, navies, and storehouses of war has proceeded abroad with growing speed and intensity. But, during these years, and extending back even to the days of the Kellogg-Briand Pact, the United States has constantly, consistently, and conscientiously done all in its power to encourage peaceful settlements, to bring about reduction of armaments, and to avert threatened wars. We have done this not only because any war anywhere necessarily hurts American security and American prosperity, but because of the more important fact that any war anywhere retards the progress of morality and religion and impairs the security of civilization itself.

For many years the primary purpose of our foreign policy has been that this nation and this Government should strive to the utmost to aid in avoiding war among other nations. But if and when war unhappily comes, the Government and the nation must exert every possible effort to avoid being drawn into the war.

The executive branch of the Government did its utmost, within our traditional policy of noninvolvement, to aid in averting the present appalling war. Having thus striven and failed, this Government must lose no time or effort to keep the nation from being drawn into the war.

In my candid judgment we shall succeed in these efforts.

We are proud of the historical record of the United States and of all the Americans during all these years because we have thrown every ounce of our influence for peace into the scale of peace.

I note in passing what you will all remember—the long debates on the subject of what constitutes aggression, on the methods of determining who the aggressor might be, and, on who the aggressor in past wars had been. Academically this may have been instructive, as it may have been of interest to historians to discuss the pros and cons and the rights and wrongs of the World War during the decade that followed it.

But in the light of problems of today and tomorrow responsibility for acts

of aggression is not concealed, and the writing of the record can safely be left to future historians.

There has been sufficient realism in the United States to see how close to our own shores came dangerous paths which were being followed on other continents.

Last January I told the Congress that "a war which threatened to envelop the world in flames has been averted, but it has become increasingly clear that peace is not assured." By April new tensions had developed; a new crisis was in the making. Several nations with whom we had friendly, diplomatic and commercial relations had lost, or were in the process of losing, their independent identity and sovereignty.

During the spring and summer the trend was definitely toward further acts of military conquest and away from peace. As late as the end of July I spoke to members of the Congress about the definite possibility of war. I should have called it the probability of war.

Last January, also, I spoke to this Congress of the need for further warning of new threats of conquest, military and economic; of challenge to religion, to democracy, and to international good faith. I said:

> An ordering of society which relegates religion, democracy, and good faith among nations to the background can find no place within it for the ideals of the Prince of Peace. The United States rejects such an ordering and retains its ancient faith. . . .
>
> We know what might happen to us of the United States if the new philosophies of force were to encompass the other continents and invade our own. We, no more than other nations, can afford to be surrounded by the enemies of our faith and our humanity. Fortunate it is, therefore, that in this Western Hemisphere we have, under a common ideal of democratic government, a rich diversity of resources and of peoples functioning together in mutual respect and peace.

Last January, in the same message, I also said:

> We have learned that when we deliberately try to legislate neutrality, our neutrality laws may operate unevenly and unfairly—may actually give aid to an aggressor and deny it to the victim. The instinct of self-preservation should warn us that we ought not to let that happen any more.

It was because of what I foresaw last January from watching the trend of foreign affairs and their probable effect upon us that I recommended to the Congress in July of this year that change be enacted in our neutrality law.

The essentials for American peace in the world have not changed since January. That is why I ask you again to reëxamine our own legislation.

Beginning with the foundation of our constitutional government in the year 1789, the American policy in respect to belligerent nations, with one notable exception, has been based on international law. Be it remembered that what we call international law has had as its primary objectives the avoidance of causes of war and the prevention of the extension of war.

The single exception was the policy adopted by this nation during the Napoleonic Wars, when, seeking to avoid involvement, we acted for some years under the so-called Embargo and Non-Intercourse Acts. That policy turned out to be a disastrous failure—first, because it brought our own nation close to ruin, and second, because it was the major cause of bringing us into active participation in European wars in our own War of 1812. It is merely reciting history to recall to you that one of the results of the policy of embargo and nonintercourse was the burning in 1814 of part of this Capitol in which we are assembled.

Our next deviation by statute from the sound principles of neutrality and peace through international law did not come for 130 years. It was the so-called Neutrality Act of 1935—only four years ago—an act continued in force by the Joint Resolution of May 1, 1937, despite grave doubts expressed as to its wisdom by many Senators and Representatives and by officials charged with the conduct of our foreign relations, including myself. I regret that the Congress passed that Act. I regret equally that I signed that Act.

On July fourteenth of this year I asked the Congress in the cause of peace and in the interest of real American neutrality and security to take action to change that Act.

I now ask again that such action be taken in respect to that part of the Act which is wholly inconsistent with ancient precepts of the law of nations—the embargo provisions. I ask it because they are, in my opinion, most vitally dangerous to American neutrality, American security, and American peace.

These embargo provisions, as they exist today, prevent the sale to a belligerent by an American factory of any completed implements of war, but they allow the sale of many types of uncompleted implements of war, as well as all kinds of general material and supplies. They, furthermore, allow such products of industry and agriculture to be taken in American-flag ships to belligerent nations. There in itself—under the present law—lies definite danger to our neutrality and our peace.

From a purely material point of view what is the advantage to us in sending all manner of articles across the ocean for final processing there when we could give employment to thousands by doing it here? Incidentally, and again from the material point of view, by such employment we automatically aid our own national defense. And if abnormal profits appear in our midst even in time of peace, as a result of this increase of industry, I feel certain that the subject will be adequately dealt with at the coming regular session of the Congress.

Let me set forth the present paradox of the existing legislation in its simplest terms: If, prior to 1935, a general war had broken out in Europe, the United States would have sold to and bought from belligerent nations such goods and products of all kinds as the belligerent nations, with their existing facilities and geographical situations, were able to buy from us or sell to us. This would have been the normal practice under the age-old doctrines of

international law. Our prior position accepted the facts of geography and of conditions of land power and sea power alike as they existed in all parts of the world. If a war in Europe had broken out prior to 1935, there would have been no difference, for example, between our exports of sheets of aluminum and airplane wings; today there is an artificial legal difference. Before 1935 there would have been no difference between the export of cotton and the export of gun cotton. Today there is. Before 1935 there would have been no difference between the shipment of brass tubing in pipe form and brass tubing in shell form. Today there is. Before 1935 there would have been no difference between the export of a motor truck and an armored motor truck. Today there is.

Let us be factual and recognize that a belligerent nation often needs wheat and lard and cotton for the survival of its population just as much as it needs anti-aircraft guns and anti-submarine depth-charges. Let those who seek to retain the present embargo position be wholly consistent and seek new legislation to cut off cloth and copper and meat and wheat and a thousand other articles from all of the nations at war.

I seek a greater consistency through the repeal of the embargo provisions and a return to international law. I seek reënactment of the historic and traditional American policy which, except for the disastrous interlude of the Embargo and Non-Intercourse Acts has served us well for nearly a century and a half.

It has been erroneously said that a return to that policy might bring us nearer to war. I give to you my deep and unalterable conviction, based on years of experience as a worker in the field of international peace, that by the repeal of the embargo the United States will more probably remain at peace than if the law remains as it stands today. I say this because with the repeal of the embargo this Government clearly and definitely will insist that American citizens and American ships keep away from the immediate perils of the actual zones of conflict.

Repeal of the embargo and a return to international law are the crux of this issue.

The enactment of the embargo provisions did more than merely reverse our traditional policy. It had the effect of putting land Powers on the same footing as naval Powers, so far as sea-borne commerce was concerned. A land Power which threatened war could thus feel assured in advance that any prospective sea-power antagonist would be weakened through denial of its ancient right to buy anything anywhere. This, four years ago, gave a definite advantage to one belligerent as against another, not through his own strength or geographic position, but through an affirmative act of ours. Removal of the embargo is merely reverting to the sounder international practice and pursuing in time of war as in time of peace our ordinary trade policies. This will be liked by some and disliked by others, depending on the view they take of the present war, but that is not the issue. The step I

recommend is to put this country back on the solid footing of real and traditional neutrality.

When and if repeal of the embargo is accomplished, certain other phases of policy reinforcing American safety should be considered. While nearly all of us are in agreement on their objectives, the only question relates to method.

I believe that American merchant vessels should, so far as possible, be restricted from entering danger zones. War zones may change so swiftly and so frequently in the days to come, that it is impossible to fix them permanently by act of Congress; specific legislation may prevent adjustment to constant and quick change. It seems, therefore, more practical to delimit them through action of the State Department and administrative agencies. The objective of restricting American ships from entering such zones may be attained by prohibiting such entry by the Congress; or the result can be substantially achieved by executive proclamation that all such voyages are solely at the risk of the American owners themselves.

The second objective is to prevent American citizens from traveling on belligerent vessels or in danger areas. This can also be accomplished either by legislation, through continuance in force of certain provisions of existing law, or by proclamation making it clear to all Americans that any such travel is at their own risk.

The third objective, requiring the foreign buyer to take transfer of title in this country to commodities purchased by belligerents, is also a result which can be attained by legislation or substantially achieved through due notice by proclamation.

The fourth objective is the preventing of war credits to belligerents. This can be accomplished by maintaining in force existing provisions of law, or by proclamation making it clear that if credits are granted by American citizens to belligerents our Government will take no steps in the future to relieve them of risk or loss. The result of these last two will be to require all purchases to be made in cash and cargoes to be carried in the purchasers' own ships, at the purchasers' own risk.

Two other objectives have been amply attained by existing law, namely, regulating collection of funds in this country for belligerents, and the maintenance of a license system covering import and export of arms, ammunition, and implements of war. Under present enactments, such arms cannot be carried to belligerent countries on American vessels, and this provision should not be disturbed.

The Congress, of course, should make its own choice of the method by which these safeguards are to be attained, so long as the method chosen will meet the needs of new and changing day-to-day situations and dangers.

To those who say that this program would involve a step toward war on our part, I reply that it offers far greater safeguards than we now possess or have ever possessed to protect American lives and property from danger. It is a positive program for giving safety. This means less likelihood of

incidents and controversies which tend to draw us into conflict, as they did in the last World War. There lies the road to peace!

The position of the executive branch of the Government is that the age-old and time-honored doctrine of international law, coupled with these positive safeguards, is better calculated than any other means to keep us out of this war.

In respect to our own defense, you are aware that I have issued a proclamation setting forth "A National Emergency in Connection with the Observance, Safeguarding, and Enforcement of Neutrality and the Strengthening of the National Defense Within the Limits of Peace-Time Authorizations." This was done solely to make wholly constitutional and legal certain obviously necessary measures. I have authorized increases in the personnel of the Army, Navy, Marine Corps, and Coast Guard, which will bring all four to a total still below peace-time strength as authorized by the Congress.

I have authorized the State Department to use, for the repatriation of Americans caught in the war zone, $500 000 already authorized by the Congress.

I have authorized the addition of 150 persons to the Department of Justice to be used in the protection of the United States against subversive foreign activities within our borders.

At this time I ask for no other authority from the Congress. At this time I see no need for further executive action under the proclamation of limited national emergency.

Therefore, I see no valid reason for the consideration of other legislation at this extraordinary session of the Congress.

It is, of course, possible that in the months to come unforeseen needs for further legislation may develop, but they are not imperative today.

These perilous days demand cooperation between us without trace of partisanship. Our acts must be guided by one single hard-headed thought—keeping America out of this war. In that spirit, I am asking the leaders of the two major parties in the Senate and in the House of Representatives to remain in Washington between the close of this extraordinary session and the beginning of the regular session on January third. They have assured me that they will do so, and I expect to consult with them at frequent intervals on the course of events in foreign affairs and on the need for future action in this field, whether it be executive or legislative action.

Further, in the event of any future danger to the security of the United States or in the event of need for any new legislation of importance, I will immediately reconvene the Congress in another extraordinary session.

I should like to be able to offer the hope that the shadow over the world might swiftly pass. I cannot. The facts compel my stating, with candor, that darker periods may lie ahead. The disaster is not of our making; no act of ours engendered the forces which assault the foundations of civilization. Yet we find ourselves affected to the core; our currents of commerce

are changing, our minds are filled with new problems, our position in world affairs has already been altered.

In such circumstances our policy must be to appreciate in the deepest sense the true American interest. Rightly considered, this interest is not selfish. Destiny first made us, with our sister nations on this hemisphere, joint heirs of European culture. Fate seems now to compel us to assume the task of helping to maintain in the western world a citadel wherein that civilization may be kept alive. The peace, the integrity, and the safety of the Americas—these must be kept firm and serene. In a period when it is sometimes said that free discussion is no longer compatible with national safety, may you by your deeds show the world that we of the United States are one people, of one mind, one spirit, one clear resolution, walking before God in the light of the living.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
September 21 1939.

STATEMENT BY THE SECRETARY OF STATE[1]

[*September 21, 1939*]

In my testimony during the hearings before the Senate Committee on Foreign Relations in the early part of 1936, I made as clear a statement on that point (change in Neutrality Act through lifting the arms embargo following the outbreak of war) as I could, namely, that most of the progress made in the development of the law of neutrality has been made by acts or steps taken during war. It is common knowledge that belligerents change their rules, practices, methods, and policies in various directions during the progress of hostilities. The law of neutrality has been developed in the direction of recognizing greater rights in the neutral than he was formerly able to assert. If neutrals were required to determine upon their policy in advance of war and in advance of conditions which they cannot possibly foresee, and to hold rigidly to that policy throughout the war while the belligerents are adopting such new policies as they may see fit to adopt, regardless of their damaging effect upon neutrals, determination of the rights and duties of neutrals and belligerents would be left primarily in the hands of the belligerents. This is not in accord with my understanding of the basic principles of the law of neutrality. It harks back to the days when belligerents regarded neutrals as friends or enemies, depending upon whether they were willing to do the bidding of the belligerent.

I think that you will find from a careful analysis of the underlying principles of the law of neutrality that this nation, or any neutral nation, has a right during a war to change its national policies whenever experience shows

[1] Made at the press conference at the Department of State. Department of State Bulletin, Sept. 23, 1939, Vol. I, No. 13, p. 280.

the necessity for such change for the protection of its interests and safety. I do not mean to be understood as saying that such action may be taken at the behest or in the interest of one of the contending belligerents, it being understood, of course, that any measures taken shall apply impartially to all belligerents.

In advocating repeal of the embargo provisions of the so-called Neutrality Act, we are endeavoring to return to a more rational position and one that is more in keeping with real neutrality under international law. The question whether such proposed action is unneutral should not, in my judgment, be a matter of serious debate. There has never in our time been more widespread publicity and notice in advance of the outbreak of war of a change in our policy than there has in this instance. This Government has given notice for well-nigh a year—at least since the first of the present year—that such a change of policy was in contemplation. Numerous bills were introduced in Congress, long hearings were held in both Houses, and it was generally understood when Congress adjourned that this subject would be on the agenda when it again convened. The President gave notice through a public statement, which would hardly be supposed to have escaped the attention of all governments and people, that if war should occur he would reconvene the Congress for the purpose of renewing consideration by it of the neutrality legislation that was pending as unfinished business when Congress adjourned.

NEUTRALITY ACT OF 1939 [1]

Approved November 4, 1939

JOINT RESOLUTION

To preserve the neutrality and the peace of the United States and to secure the safety of its citizens and their interests.

Whereas the United States, desiring to preserve its neutrality in wars between foreign states and desiring also to avoid involvement therein, voluntarily imposes upon its nationals by domestic legislation the restrictions set out in this joint resolution; and

Whereas by so doing the United States waives none of its own rights or privileges, or those of any of its nationals, under international law, and expressly reserves all the rights and privileges to which it and its nationals are entitled under the law of nations; and

Whereas the United States hereby expressly reserves the right to repeal, change or modify this joint resolution or any other domestic legislation in the interests of the peace, security or welfare of the United States and its people: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

[1] Public Resolution—No. 54—76th Congress. Chapter 2—2d Session [H. J. Res. 306].

PROCLAMATION OF A STATE OF WAR BETWEEN FOREIGN STATES

SECTION 1. (a) That whenever the President, or the Congress by concurrent resolution, shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

(b) Whenever the state of war which shall have caused the President to issue any proclamation under the authority of this section shall have ceased to exist with respect to any state named in such proclamation, he shall revoke such proclamation with respect to such state.

COMMERCE WITH STATES ENGAGED IN ARMED CONFLICT

SEC. 2. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a) it shall thereafter be unlawful for any American vessel to carry any passengers or any articles or materials to any state named in such proclamation.

(b) Whoever shall violate any of the provisions of subsection (a) of this section or of any regulations issued thereunder shall, upon conviction thereof, be fined not more than $50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or director thereof participating in the violation shall be liable to the penalty herein prescribed.

(c) Whenever the President shall have issued a proclamation under the authority of Section 1 (a) it shall thereafter be unlawful to export or transport, or attempt to export or transport, or cause to be exported or transported, from the United States to any state named in such proclamation, any articles or materials (except copyrighted articles or materials) until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national. Issuance of a bill of lading under which title to the articles or materials to be exported or transported passes to a foreign purchaser unconditionally upon the delivery of such articles or materials to a carrier, shall constitute a transfer of all right, title, and interest therein within the meaning of this subsection. The shipper of such articles or materials shall be required to file with the collector of the port from or through which they are to be exported a declaration under oath that he has complied with the requirements of this subsection with respect to transfer of right, title, and interest in such articles or materials, and that he will comply with such rules and regulations as shall be promulgated from time to time. Any such declaration so filed shall be a conclusive estoppel against any claim of any citizen of the United States of right, title, or interest in such articles or materials, if such citizen

had knowledge of the filing of such declaration; and the exportation or transportation of any articles or materials without filing the declaration required by this subsection shall be a conclusive estoppel against any claim of any citizen of the United States of right, title, or interest in such articles or materials, if such citizen had knowledge of such violation. No loss incurred by any such citizen (1) in connection with the sale or transfer of right, title, and interest in any such articles or materials or (2) in connection with the exportation or transportation of any such copyrighted articles or materials, shall be made the basis of any claim put forward by the Government of the United States.

(d) Insurance written by underwriters on articles or materials included in shipments which are subject to restrictions under the provisions of this joint resolution, and on vessels carrying such shipments shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials, or vessels, and no loss incurred thereunder or by the owners of such vessels, shall be made the basis of any claim put forward by the Government of the United States.

(e) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

(f) The provisions of subsection (a) of this section shall not apply to transportation by American vessels on or over lakes, rivers, and inland waters bordering on the United States, or to transportation by aircraft on or over lands bordering on the United States; and the provisions of subsection (c) of this section shall not apply (1) to such transportation of any articles or materials other than articles listed in a proclamation referred to in or issued under the authority of Section 12 (i), or (2) to any other transportation on or over lands bordering on the United States of any articles or materials other than articles listed in a proclamation referred to in or issued under the authority of Section 12 (i); and the provisions of subsections (a) and (c) of this section shall not apply to the transportation referred to in this subsection and subsections (g) and (h) of any articles or materials listed in a proclamation referred to in or issued under the authority of Section 12 (i) if the articles or materials so listed are to be used exclusively by American vessels, aircraft, or other vehicles in connection with their operation and maintenance.

(g) The provisions of subsections (a) and (c) of this section shall not apply to transportation by American vessels (other than aircraft) of mail, passengers, or any articles or materials (except articles or materials listed in a proclamation referred to in or issued under the authority of Section 12 (i)) (1) to any port in the Western Hemisphere south of thirty-five degrees north latitude, (2) to any port in the Western Hemisphere north of thirty-five degrees north latitude and west of sixty-six degrees west longitude, (3) to any

port on the Pacific or Indian Oceans, including the China Sea, the Tasman Sea, the Bay of Bengal, and the Arabian Sea, and any other dependent waters of either of such oceans, seas, or bays, or (4) to any port on the Atlantic Ocean or its dependent waters south of thirty degrees north latitude. The exceptions contained in this subsection shall not apply to any such port which is included within a combat area as defined in Section 3 which applies to such vessels.

(h) The provisions of subsections (a) and (c) of this section shall not apply to transportation by aircraft of mail, passengers, or any articles or materials (except articles or materials listed in a proclamation referred to in or issued under the authority of Section 12 (i)) (1) to any port in the Western Hemisphere, or (2) to any port on the Pacific or Indian Oceans, including the China Sea, the Tasman Sea, the Bay of Bengal, and the Arabian Sea, and any other dependent waters of either of such oceans, seas, or bays. The exceptions contained in this subsection shall not apply to any such port which is included within a combat area as defined in Section 3 which applies to such aircraft.

(i) Every American vessel to which the provisions of subsections (g) and (h) apply, and every neutral vessel to which the provisions of subsection (l) apply, shall, before departing from a port or from the jurisdiction of the United States, file with the collector of customs of the port of departure, or if there is no such collector at such port then with the nearest collector of customs, a sworn statement (1) containing a complete list of all the articles and materials carried as cargo by such vessel, and the names and addresses of the consignees of all such articles and materials, and (2) stating the ports at which such articles and materials are to be unloaded and the ports of call of such vessel. All transportation referred to in subsections (f), (g), (h), and (l) of this section shall be subject to such restrictions, rules, and regulations as the President shall prescribe; but no loss incurred in connection with any transportation excepted under the provisions of subsections (g), (h), and (l) of this section shall be made the basis of any claim put forward by the Government of the United States.

(j) Whenever all proclamations issued under the authority of Section 1 (a) shall have been revoked, the provisions of subsections (f), (g), (h), (i), and (l) of this section shall expire.

(k) The provisions of this section shall not apply to the current voyage of any American vessel which has cleared for a foreign port and has departed from a port or from the jurisdiction of the United States in advance of (1) the date of enactment of this joint resolution, or (2) any proclamation issued after such date under the authority of Section 1 (a) of this joint resolution; but any such vessel shall proceed at its own risk after either of such dates, and no loss incurred in connection with any such vessel or its cargo after either of such dates shall be made the basis of any claim put forward by the Government of the United States.

(l) The provisions of subsection (c) of this section shall not apply to the transportation by a neutral vessel to any port referred to in subsection (g) of this section of any articles or materials (except articles or materials listed in a proclamation referred to in or issued under the authority of Section 12 (i)) so long as such port is not included within a combat area as defined in Section 3 which applies to American vessels.

COMBAT AREAS

SEC. 3. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall, by proclamation, define combat areas, and thereafter it shall be unlawful, except under such rules and regulations as may be prescribed, for any citizen of the United States or any American vessel to proceed into or through any such combat area. The combat areas so defined may be made to apply to surface vessels or aircraft, or both.

(b) In case of the violation of any of the provisions of this section by any American vessel, or any owner or officer thereof, such vessel, owner, or officer shall be fined not more than $50,000 or imprisoned for not more than five years, or both. Should the owner of such vessel be a corporation, organization, or association, each officer or director participating in the violation shall be liable to the penalty hereinabove prescribed. In case of the violation of this section by any citizen traveling as a passenger, such passenger may be fined not more than $10,000 or imprisoned for not more than two years, or both.

(c) The President may from time to time modify or extend any proclamation issued under the authority of this section, and when the conditions which shall have caused him to issue any such proclamation shall have ceased to exist he shall revoke such proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

AMERICAN RED CROSS

SEC. 4. The provisions of Section 2 (a) shall not prohibit the transportation by vessels under charter or other direction and control of the American Red Cross, proceeding under safe conduct granted by states named in any proclamation issued under the authority of Section 1 (a), of officers and American Red Cross personnel, medical personnel, and medical supplies, food, and clothing, for the relief of human suffering.

TRAVEL ON VESSELS OF BELLIGERENT STATES

SEC. 5. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of any state named in

such proclamation, except in accordance with such rules and regulations as may be prescribed.

(b) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

ARMING OF AMERICAN MERCHANT VESSELS PROHIBITED

SEC. 6. Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel, engaged in commerce with any foreign state to be armed, except with small arms and ammunition therefor, which the President may deem necessary and shall publicly designate for the preservation of discipline aboard any such vessel.

FINANCIAL TRANSACTIONS

SEC. 7. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any state named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, or political subdivision thereof, issued after the date of such proclamation, or to make any loan or extend any credit (other than necessary credits accruing in connection with the transmission of telegraph, cable, wireless and telephone services) to any such government, political subdivision, or person. The provisions of this subsection shall also apply to the sale by any person within the United States to any person in a state named in any such proclamation of any articles or materials listed in a proclamation referred to in or issued under the authority of Section 12 (i).

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of such proclamation.

(c) Whoever shall knowingly violate any of the provisions of this section or of any regulations issued thereunder shall, upon conviction thereof, be fined not more than $50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or director thereof participating in the violation shall be liable to the penalty herein prescribed.

(d) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

SOLICITATION AND COLLECTION OF FUNDS AND CONTRIBUTIONS

SEC. 8. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any state named in such proclamation or for or on behalf of any agent or instrumentality of any such state.

(b) Nothing in this section shall be construed to prohibit the solicitation or collection of funds and contributions to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds and contributions is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, but all such solicitations and collections of funds and contributions shall be in accordance with and subject to such rules and regulations as may be prescribed.

(c) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

AMERICAN REPUBLICS

SEC. 9. This joint resolution (except Section 12) shall not apply to any American republic engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war.

RESTRICTIONS ON USE OF AMERICAN PORTS

SEC. 10. (a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port or from the jurisdiction of the United States, fuel, men, arms, ammunition, implements of war, supplies, dispatches, or information to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of Section 1 (a), but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by Section 1, Title VI, Chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. C., 1934 edition, Title 18, Sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power, and it shall be his duty, to require the owner, master, or person in command thereof, before departing from a port or from the jurisdiction of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men,

or any fuel, supplies, dispatches, information, or any part of the cargo, to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of Section 1 (a).

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously departed from a port or from the jurisdiction of the United States during such war and delivered men, fuel, supplies, dispatches, information, or any part of its cargo to a warship, tender, or supply ship of a state named in a proclamation issued under the authority of Section 1 (a), he may prohibit the departure of such vessel during the duration of the war.

(c) Whenever the President shall have issued a proclamation under Section 1 (a) he may, while such proclamation is in effect, require the owner, master, or person in command of any vessel, foreign or domestic, before departing from the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that no alien seaman who arrived on such vessel shall remain in the United States for a longer period than that permitted under the regulations, as amended from time to time, issued pursuant to Section 33 of the Immigration Act of February 5, 1917 (U. S. C., Title 8, Sec. 168). Notwithstanding the provisions of said Section 33, the President may issue such regulations with respect to the landing of such seamen as he deems necessary to insure their departure either on such vessel or another vessel at the expense of such owner, master, or person in command.

SUBMARINES AND ARMED MERCHANT VESSELS

SEC. 11. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

NATIONAL MUNITIONS CONTROL BOARD

SEC. 12. (a) There is hereby established a National Munitions Control Board (hereinafter referred to as the "Board"). The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the

Board, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. Except as otherwise provided in this section, or by other law, the administration of this section is vested in the Secretary of State. The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions. The Board shall be convened by the chairman and shall hold at least one meeting a year.

(b) Every person who engages in the business of manufacturing, exporting, or importing any arms, ammunition, or implements of war listed in a proclamation referred to in or issued under the authority of subsection (i) of this section, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

(c) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, or implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of $100. Upon receipt of the required registration fee, the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment for each renewal of a fee of $100; but valid certificates of registration (including amended certificates) issued under the authority of Section 2 of the joint resolution of August 31, 1935, or Section 5 of the joint resolution of August 31, 1935, as amended shall, without payment of any additional registration fee, be considered to be valid certificates of registration issued under this subsection, and shall remain valid for the same period as if this joint resolution had not been enacted.

(d) It shall be unlawful for any person to export, or attempt to export, from the United States to any other state, any arms, ammunition, or implements of war listed in a proclamation referred to in or issued under the authority of subsection (i) of this section, or to import, or attempt to import, to the United States from any other state, any of the arms, ammunition, or implements of war listed in any such proclamation, without first having submitted to the Secretary of State the name of the purchaser and the terms of sale and having obtained a license therefor.

(e) All persons required to register under this section shall maintain, subject to the inspection of the Secretary of State, or any person or persons designated by him, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Secretary of State shall prescribe.

(f) Licenses shall be issued by the Secretary of State to persons who have registered as herein provided for, except in cases of export or import licenses where the export of arms, ammunition, or implements of war would be in violation of this joint resolution or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued; but a valid license issued under the authority of Section 2 of the joint resolution of August 31, 1935, or Section 5 of the joint resolution of August 31, 1935, as amended, shall be considered to be a valid license issued under this subsection, and shall remain valid for the same period as if this joint resolution had not been enacted.

(g) No purchase of arms, ammunition, or implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this joint resolution.

(h) The Board shall make a report to Congress on January 3 and July 3 of each year, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war, including the name of the purchaser and the terms of sale made under any such license. The Board shall include in such reports a list of all persons required to register under the provisions of this joint resolution, and full information concerning the licenses issued hereunder, including the name of the purchaser and the terms of sale made under any such license.

(i) The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section; but the proclamation Numbered 2237, of May 1, 1937 (50 Stat. 1834), defining the term "arms, ammunition, and implements of war"[1] shall, until it is revoked, have full force and effect as if issued under the authority of this subsection.

REGULATIONS

SEC. 13. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

UNLAWFUL USE OF THE AMERICAN FLAG

SEC. 14. (a) It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel.

[1] Printed in this JOURNAL, Supplement, Vol. 31 (1937), p. 160.

(b) Any vessel violating the provisions of subsection (a) of this section shall be denied for a period of three months the right to enter the ports or territorial waters of the United States except in cases of force majeure.

GENERAL PENALTY PROVISION

SEC. 15. In every case of the violation of any of the provisions of this joint resolution or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than $10 000, or imprisoned not more than two years, or both.

DEFINITIONS

SEC. 16. For the purposes of this joint resolution—

(a) The term "United States", when used in a geographical sense, includes the several States and Territories the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

(b) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

(c) The term "vessel" means every description of watercraft and aircraft capable of being used as a means of transportation on, under, or over water.

(d) The term "American vessel" means any vessel documented, and any aircraft registered or licensed, under the laws of the United States.

(e) The term "state" shall include nation, government and country.

(f) The term "citizen" shall include any individual owing allegiance to the United States, a partnership, company, or association composed in whole or in part of citizens of the United States and any corporation organized and existing under the laws of the United States as defined in subsection (a) of this section.

SEPARABILITY OF PROVISIONS

SEC. 17. If any of the provisions of this joint resolution, or the application thereof to any person or circumstance, is held invalid, the remainder of the joint resolution, and the application of such provision to other persons or circumstances, shall not be affected thereby.

APPROPRIATIONS

SEC. 18. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this joint resolution.

REPEALS

SEC. 19. The joint resolution of August 31, 1935, as amended, and the joint resolution of January 8, 1937, are hereby repealed; but offenses com-

mitted and penalties, forfeitures, or liabilities incurred under either of such joint resolutions prior to the date of enactment of this joint resolution may be prosecuted and punished, and suits and proceedings for violations of either of such joint resolutions or of any rule or regulation issued pursuant thereto may be commenced and prosecuted, in the same manner and with the same effect as if such joint resolutions had not been repealed.

SHORT TITLE

SEC. 20. This joint resolution may be cited as the "Neutrality Act of 1939".

Approved, November 4, 1939, 12:04 p. m.

PROCLAMATION OF A STATE OF WAR BETWEEN GERMANY AND FRANCE; POLAND; AND THE UNITED KINGDOM, INDIA, AUSTRALIA, CANADA, NEW ZEALAND AND THE UNION OF SOUTH AFRICA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION [1]

[No. 2374—November 4, 1939]

Whereas Section 1 of the Joint Resolution of Congress approved November 4, 1939, provides in part as follows:

> That whenever the President, or the Congress by concurrent resolution, shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

And whereas it is further provided by Section 13 of the said Joint Resolution that

> The President may, from time to time, promulgate such rules and regulations, not inconsistent with law as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred on me by the said Joint Resolution, do hereby proclaim that a state of war unhappily exists between Germany and France; Poland; and the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa, and that it is necessary to promote the security and preserve the peace of the United States and to protect the lives of citizens of the United States.

And I do hereby enjoin upon all officers of the United States, charged with

[1] Federal Register, Nov. 7, 1939, Vol. 4, No. 215, p. 4493; Department of State Bulletin, Nov. 4, 1939, Vol. I, No. 19, p. 453.

the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred on me by the said Joint Resolution, as made effective by this my proclamation issued thereunder, which is not specifically delegated by Executive order to some other officer or agency of this Government, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

And I do hereby revoke my proclamations Nos. 2349, 2354 and 2360 issued on September 5, 8, and 10, 1939, respectively, in regard to the export of arms, ammunition, and implements of war to France; Germany; Poland; and the United Kingdom, India, Australia and New Zealand; to the Union of South Africa; and to Canada.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington this fourth day of November, in the year of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL
Secretary of State

USE OF PORTS OR TERRITORIAL WATERS OF THE UNITED STATES BY SUBMARINES OF FOREIGN BELLIGERENT STATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION [1]

[No. 2375—November 4, 1939]

Whereas Section 11 of the Joint Resolution approved November 4, 1939, provides:

> Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters

[1] Federal Register, Nov. 7, 1939, Vol. 4, No. 215 p. 4494; Department of State Bulletin, Nov. 4, 1939, Vol. I, No. 19, p. 456.

of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

Whereas there exists a state of war between Germany and France; Poland; and the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa;

Whereas the United States of America is neutral in such war;

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the foregoing provision of Section 11 of the Joint Resolution approved November 4, 1939, do by this proclamation find that special restrictions placed on the use of the ports and territorial waters of the United States, exclusive of the Canal Zone, by the submarines of a foreign belligerent state, both commercial submarines and submarines which are ships of war, will serve to maintain peace between the United States and foreign states, to protect the commercial interests of the United States and its citizens, and to promote the security of the United States;

And I do further declare and proclaim that it shall hereafter be unlawful for any submarine of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, or the Union of South Africa, to enter ports or territorial waters of the United States, exclusive of the Canal Zone, except submarines of the said belligerent states which are forced into such ports or territorial waters of the United States by *force majeure;* and in such cases of *force majeure,* only when such submarines enter ports or territorial waters of the United States while running on the surface with conning tower and superstructure above water and flying the flags of the foreign belligerent states of which they are vessels. Such submarines may depart from ports or territorial waters of the United States only while running on the surface with conning tower and superstructure above water and flying the flags of the foreign belligerent states of which they are vessels.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

And I do hereby revoke my Proclamation No. 2371 issued by me on October 18, 1939, in regard to the use of ports or territorial waters of the United States by submarines of foreign belligerent states.

This proclamation shall continue in full force and effect unless and until modified, revoked or otherwise terminated, pursuant to law.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington this fourth day of November, in the year of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL
Secretary of State

DEFINITION OF COMBAT AREAS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION [1]

[No. 2376—November 4, 1939]

Whereas Section 3 of the Joint Resolution of Congress approved November 4, 1939, provides as follows:

> (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall, by proclamation, define combat areas, and thereafter it shall be unlawful, except under such rules and regulations as may be prescribed, for any citizen of the United States or any American vessel to proceed into or through any such combat area. The combat areas so defined may be made to apply to surface vessels or aircraft, or both.
>
> (b) In case of the violation of any of the provisions of this section by any American vessel, or any owner or officer thereof, such vessel, owner, or officer shall be fined not more than $50,000 or imprisoned for not more than five years, or both. Should the owner of such vessel be a corporation, organization, or association, each officer or director participating in the violation shall be liable to the penalty hereinabove prescribed. In case of the violation of this section by any citizen traveling as a passenger, such passenger may be fined not more than $10,000 or imprisoned for not more than two years, or both.
>
> (c) The President may from time to time modify or extend any proclamation issued under the authority of this section, and when the conditions which shall have caused him to issue any such proclamation shall have ceased to exist he shall revoke such proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

And Whereas it is further provided by Section 13 of the said Joint Resolution that

> The President may, from time to time, promulgate such rules and regulations, not inconsistent with law as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

[1] Federal Register, Nov. 7, 1939, Vol. 4, No. 215, p. 4495; Department of State Bulletin, Nov. 4, 1939, Vol. I, No. 19, p. 454.

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred on me by the said Joint Resolution, do hereby find that the protection of citizens of the United States requires that there be defined a combat area through or into which it shall be unlawful, except under such rules and regulations as may be prescribed, for any citizen of the United States or any American vessel, whether a surface vessel or an aircraft, to proceed.

And I do hereby define such combat area as follows:

All the navigable waters within the limits set forth hereafter.

Beginning at the intersection of the North Coast of Spain with the meridian of 2° 45′ longitude west of Greenwich;

Thence due north to a point in 43° 54′ north latitude;

Thence by rhumb line to a point in 45° 00′ north latitude; 20° 00′ west longitude;

Thence due north to 58° 00′ north latitude;

Thence by a rhumb line to latitude 62° north, longitude 2° east;

Thence by rhumb line to latitude 60° north, longitude 5° east;

Thence due east to the mainland of Norway;

Thence along the coastline of Norway, Sweden, the Baltic Sea and dependent waters thereof, Germany, Denmark, the Netherlands, Belgium, France and Spain to the point of beginning.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred on me by the said Joint Resolution as made effective by this my proclamation issued thereunder, which is not specifically delegated by Executive order to some other officer or agency of this Government, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington this fourth day of November, in the year of our Lord nineteen hundred and thirty-nine, and of the Inde-
[SEAL] pendence of the United States of America the one hundred and sixty-fourth, at 3 p.m.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL
Secretary of State

STATEMENT BY THE PRESIDENT[1]

The revised Neutrality Law has been signed and has gone into effect today; and I have also, under it, issued a proclamation defining a combat area, described in latitude and longitude.

In plain English, the chief result is this. From now on, no American ships may go to belligerent ports, British, French and German, in Europe or Africa as far south as the Canary Islands. This is laid down in the law and there is no discretion in the matter.

By proclaiming a combat area I have set out the area in which the actual operations of the war appear to make navigation of American ships dangerous. This combat area takes in the whole Bay of Biscay, except waters on the north coast of Spain so close to the Spanish coast as to make danger of attack unlikely. It also takes in all the waters around Great Britain, Ireland and the adjacent islands including the English Channel. It takes in the whole North Sea, running up the Norwegian coast to a point south of Bergen. It takes in all of the Baltic Sea and its dependent waters.

In substance, therefore, American ships cannot now proceed to any ports in France, Great Britain or Germany. This is by statute. By proclamation they cannot proceed to any ports in Ireland, nor to any port in Norway south of Bergen; nor to any ports in Sweden, Denmark, Netherlands or Belgium, nor to Baltic ports. All neutral ports in the Mediterranean and Black Seas are open; likewise all ports, belligerent or neutral, in the Pacific and Indian Oceans and dependent waters, and all ports in Africa south of the latitude of the Canaries (30° N).

I have discretion to permit, within the spirit of the law, American shipping to operate in the combat areas, where there is necessity. It is intended by regulation to provide that ships and citizens who are now in combat areas may get out of them; and for the minimum of necessary official, relief and other similar travel which must go on in such areas. It is also intended to provide that vessels which cleared for combat areas before the Act and proclamation became effective shall be allowed to complete their voyages.

Combat areas may change with circumstances and it may be found that areas now safe become dangerous, or that areas now troubled may later become safe. In this case the areas will be changed to fit the situation.

Coastwise American shipping is not affected by the bill, nor is shipping between American Republics or Bermuda or any of the Caribbean Islands. In the main, shipping between the United States and Canada is also not affected.

[1] State Department press release, Nov. 4, 1939. [No. 573.]

REGULATIONS UNDER SECTION 3 OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939[1]

[November 6, 1939]

The President's Proclamation of November 4, 1939, issued pursuant to the provisions of Section 3 of the Joint Resolution of Congress approved November 4, 1939, provides as follows:

[Here follows the text of Proclamation No. 2376, *supra*, p. 58.]

By virtue of the authority vested in him by the President's proclamation quoted above to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of Section 3 of the Joint Resolution of Congress approved November 4, 1939, as made effective by this proclamation, the Secretary of State prescribes the following regulations:

(1) Holders of American passports issued or validated subsequent to September 4, 1939, for travel in Europe are hereby permitted to proceed, in accordance with the authorizations and subject to the restrictions noted on such passports, into and through any such combat area, whether by surface vessels or aircraft, or both, until further regulation. Holders of American passports, whether or not so issued or validated, presently in the combat areas defined by the proclamation of the President of the United States dated November 4, 1939, are hereby permitted to proceed into and through such combat areas in connection with travel in accordance with the authorizations and subject to the restrictions noted on such passports, until further regulation.

(2) The provisions of the President's Proclamation of November 4, 1939, do not apply to the current voyage of any American vessel which cleared for a foreign port in the combat area defined in that proclamation and which departed from a port or from the jurisdiction of the United States in advance of the date of the President's proclamation.

(3) The provisions of the proclamation do not apply to vessels of the United States Navy or the United States Coast Guard proceeding through or into this area under orders or in the course of duty.

(4) The provisions of the proclamation do not apply to any American vessel which, by arrangement with the appropriate authorities of the United States Government, is commissioned to proceed into or through this combat area in order to evacuate citizens of the United States who are in imminent danger to their lives as a result of combat operations incident to the present war, or to any American vessel proceeding into or through this area under charter or other direction and control of the American Red Cross and under safe conduct granted by belligerent states named in the President's proclamation of November 4, 1939.

[SEAL]

CORDELL HULL
Secretary of State

[1] Federal Register, Nov. 8, 1939, Vol. 4, No. 216, p. 4510; Department of State Bulletin, Nov. 11, 1939, Vol. I, No. 20, p. 479. See Departmental Orders, No. 827, Nov. 17, and No. 831, Dec. 14, *infra*, pp. 63, 66.

REGULATIONS UNDER SECTION 5 OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939[1]

[November 3, 1939]

Section 5 of the Joint Resolution of Congress approved November 4, 1939, provides as follows:

> (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of any state named in such proclamation, except in accordance with such rules and regulations as may be prescribed.
>
> (b) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

Section 15 of the said Joint Resolution provides as follows:

> In every case of the violation of any of the provisions of this joint resolution or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than $10,000, or imprisoned not more than two years, or both.

On November 4, 1939, the President issued a proclamation in respect to France; Germany; Poland; and the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa under the authority of Section 1 of the said Joint Resolution, thereby making effective in respect to those countries the provisions of Section 5 of the said Joint Resolution quoted above.

Section 13 of the said Joint Resolution provides as follows:

> The President may, from time to time promulgate such rules and regulations, not inconsistent with law as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

The President's proclamation of November 4, 1939, issued pursuant to the provisions of Section 1 of the above-mentioned Joint Resolution provides in part as follows:

> And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred upon me by the said joint resolution, as made effective by this my proclamation issued thereunder, which is not specifically delegated by Executive order to some other officer or agency of this Government, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

In pursuance of those provisions of the law and of the President's proclamation of November 4, 1939, which are quoted above, the Secretary of State announces the following regulations:

[1] Federal Register, Nov. 8, 1939, Vol. 4, No. 218, p. 4509; Department of State Bulletin, Nov. 11, 1939, Vol. I, No. 20, p. 480. See Departmental Orders, No. 827, Nov. 17, and No. 831, Dec. 14, *infra*, pp. 63, 66.

American diplomatic and consular officers and their families, members of their staffs and their families, and American military and naval officers and personnel and their families may travel pursuant to orders on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa if the public service requires.

Other American citizens may travel on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa, provided, however, that travel on or over the north Atlantic Ocean, north of 35 degrees north latitude and east of 66 degrees west longitude or on or over other waters adjacent to Europe or over the continent of Europe or adjacent islands shall not be permitted except when specifically authorized by the Secretary of State in each case.

[SEAL] CORDELL HULL
Secretary of State

November 6, 1939

REGULATIONS RELATING TO TRAVEL IN COMBAT AREAS AND ON BELLIGERENT VESSELS[1]

DEPARTMENTAL ORDER

[*No. 827—November 17, 1939*]

Section 5 (a) of the Neutrality Act of 1939 regarding travel on belligerent vessels provides as follows:

> SEC. 5. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of any state named in such proclamation, except in accordance with such rules and regulations as may be prescribed.

On November 6, the following regulations were prescribed in pursuance of the above provision:

> American diplomatic and consular officers and their families, members of their staffs and their families, and American military and naval officers and personnel and their families may travel pursuant to orders on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa if the public service requires.
>
> Other American citizens may travel on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa, provided, however, that travel on or over the north Atlantic Ocean, north of 35 degrees north latitude and east of 66 degrees west longitude or on or over other waters adjacent to Europe or over the continent of Europe or adjacent islands shall not be permitted except when specifically authorized by the Secretary of State in each case.

Section 3 (a) of the Neutrality Act of 1939, regarding travel into or through combat areas provides as follows:

[1] Federal Register Nov. 22, 1939, Vol. 4, No. 226, p. 4640; Department of State Bulletin, Nov. 18, 1939, Vol. 1, No. 21, p. 553.

SEC. 3. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall by proclamation, define combat areas, and thereafter it shall be unlawful, except under such rules and regulations as may be prescribed, for any citizen of the United States or any American vessel to proceed into or through any such combat area. The combat areas so defined may be made to apply to surface vessels or aircraft, or both.

The President, by proclamation of November 4, 1939, entitled "Definition of Combat Areas" defined a combat area as follows:

All the navigable waters within the limits set forth hereafter.

Beginning at the intersection of the North Coast of Spain with the meridian of 2° 45′ longitude west of Greenwich;

Thence due north to a point in 43° 54′ north latitude;

Thence by rhumb line to a point in 45° 00′ north latitude; 20° 00′ west longitude;

Thence due north to 58° 00′ north latitude;

Thence by rhumb line to latitude 62° north, longitude 2° east;

Thence by rhumb line to latitude 60° north, longitude 5° east;

Thence due east to the mainland of Norway;

Thence along the coastline of Norway, Sweden, the Baltic Sea and dependent waters thereof, Germany, Denmark, the Netherlands, Belgium, France and Spain to the point of beginning.

On November 6, 1939, the following regulations relating to travel into and through combat areas were prescribed:

Holders of American passports issued or validated subsequent to September 4, 1939, for travel in Europe are hereby permitted to proceed, in accordance with the authorizations and subject to the restrictions noted on such passports, into and through any such combat area, whether by surface vessels or aircraft, or both, until further regulation. Holders of American passports, whether or not so issued or validated, presently in the combat areas defined by the proclamation of the President of the United States dated November 4, 1939, are hereby permitted to proceed into and through such combat areas in connection with travel in accordance with the authorizations and subject to the restrictions noted on such passports, until further regulation.

By virtue of and pursuant to the above quoted provisions of law and in pursuance of the President's proclamation of November 4, 1939, I, the undersigned, Acting Secretary of State of the United States, hereby prescribe the following regulation amending the regulations of November 6, 1939, relating to travel on belligerent vessels, by substituting for the words "the Secretary of State" the words "the Passport Division of the Department of State or an American Diplomatic or Consular Officer abroad," and also the following regulations supplementing the regulations prescribed on November 6, 1939, relating to travel into or through combat areas.

1. American nationals may not travel on any surface vessel or aircraft into or through any area which is or may be defined as a combat area unless they possess American passports which have been endorsed as valid, as hereinafter provided, for such travel by the Passport Division of the Department of State or an American Diplomatic or Consular officer abroad.

2. Each such endorsement shall be restricted in validity to one specific journey into or through a combat area and shall not be valid for travel on a belligerent vessel unless transportation on a neutral vessel is not reasonably available.

3. Endorsements valid for travel into or through a combat area may be placed on the passports of officers and employees of the United States, civil or military, and members of their families if the public service requires.

4. Endorsements valid for travel into or through a combat area shall not be placed on the passports of other American nationals except in cases of imperative necessity and unless other routes of travel to destination are not reasonably available.

5. These regulations are not applicable to the following American nationals who are hereby authorized, under the conditions stated, to travel into or through combat areas without being in possession of American passports endorsed as valid for such travel:

(a) Officers and enlisted personnel on board any vessels of the United States Navy or United States Coast Guard proceeding into or through combat areas under orders or in the course of duty.

(b) Officers and members of the crew of any American vessel which, by arrangement with the appropriate authorities of the Government of the United States, may be commissioned to proceed into or through a combat area in order to evacuate citizens of the United States who are in imminent danger to their lives as a result of combat operations incident to the present war.

(c) Officers and members of the crew of any American vessel proceeding into or through a combat area under charter or other direction and control of the American Red Cross and under safe conduct granted by belligerent states.

(d) Officers and members of the crew of any American vessel which in advance of a proclamation by the President defining any area as a combat area cleared and departed from an American or foreign port for a port or ports within the area so defined as a combat area; *Provided, however,* that the provisions of this subsection are limited to a current voyage so undertaken.

[SEAL]

SUMNER WELLES
Acting Secretary of State

DEPARTMENT OF STATE
November 17, 1939

REGULATIONS RELATING TO TRAVEL INTO AND THROUGH COMBAT AREAS AND ON BELLIGERENT VESSELS[1]

DEPARTMENTAL ORDER

[No. 831—December 14, 1939]

Pursuant to the authority contained in the President's Proclamations Nos. 2374 and 2376 issued on November 4, 1939, in pursuance of Sections 1 and 3, respectively, of the Neutrality Act of 1939, approved November 4, 1939, I, Cordell Hull, Secretary of State of the United States, hereby prescribe the following regulation, amending the regulations issued on November 6, 1939, as amended by regulation issued on November 17, 1939, relating to travel on belligerent vessels, and also amending the regulations issued on November 17, 1939, relating to travel into or through combat areas.

Individuals who possess both American nationality and a foreign nationality, and who habitually reside in the foreign state of which they are nationals, and who are using passports of such foreign state, may, while en route to and from such state, travel on a belligerent vessel across the English Channel, the Irish Sea or St. George's Channel without obtaining specific authority and without an American passport endorsed as valid for such travel. Individuals who undertake travel under the conditions indicated shall do so on the understanding that they will look for protection to the foreign state whose passport they carry.

DEPARTMENT OF STATE
December 14, 1939

CORDELL HULL

REGULATIONS UNDER SECTION 6 OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939[2]

[November 6, 1939]

Section 6 of the Joint Resolution of Congress approved November 4, 1939, provides as follows:

> Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel, engaged in commerce with any foreign state to be armed, except with small arms and ammunition therefor, which the President may deem necessary and shall publicly designate for the preservation of discipline aboard any such vessel.

Section 15 of the said Joint Resolution provides as follows:

> In every case of the violation of any of the provisions of this joint resolution or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than $10,000, or imprisoned not more than two years, or both.

[1] Department of State Bulletin, Dec. 16, 1939, Vol. I, No. 25, p. 686.

[2] Federal Register, Nov. 8, 1939, Vol. 4, No. 216, p. 4523; Department of State Bulletin, Nov. 11, 1939, Vol. I, No. 20, p. 481.

On November 4, 1939, the President issued a proclamation in respect to France; Germany; Poland; and the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa under the authority of Section 1 of the said Joint Resolution, thereby making effective the provisions of Section 6 of the said Joint Resolution quoted above.

Section 13 of the said Joint Resolution provides as follows:

> The President may, from time to time, promulgate such rules and regulations, not inconsistent with law as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

The President's proclamation of November 4, 1939, issued pursuant to the provisions of Section 1 of the above-mentioned Joint Resolution provides in part as follows:

> And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred upon me by the said joint resolution, as made effective by this my proclamation issued thereunder, which is not specifically delegated by Executive order to some other officer or agency of this Government, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

In pursuance of those provisions of the law and of the President's proclamation of November 4, 1939, which are quoted above, the Secretary of State announces the following regulations:

> American vessels engaged in commerce with foreign states may carry such small arms and ammunition as the masters of these vessels may deem indispensable for the preservation of discipline aboard the vessels.

CORDELL HULL
Secretary of State

November 6, 1939.

RULES AND REGULATIONS GOVERNING THE SOLICITATION AND COLLECTION OF CONTRIBUTIONS FOR USE IN FRANCE; GERMANY; POLAND; AND THE UNITED KINGDOM, INDIA, AUSTRALIA, CANADA, NEW ZEALAND, AND THE UNION OF SOUTH AFRICA [1]

[*November 6, 1939*]

Section 8 of the Joint Resolution of Congress approved November 4, 1939 (Public Resolution—No. 54—76th Congress—Second Session) provides as follows:

> SEC. 8. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any state named in such proclamation or for or on behalf of any agent or instrumentality of any such state

[1] Federal Register, Nov. 8, 1939, Vol. 4, No. 216, p. 4510; Department of State Bulletin, Nov. 11, 1939, Vol. I, No. 20, p. 482.

(b) Nothing in this section shall be construed to prohibit the solicitation or collection of funds and contributions to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds and contributions is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, but all such solicitations and collections of funds and contributions shall be in accordance with and subject to such rules and regulations as may be prescribed.

(c) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

Section 15 of the said Joint Resolution provides as follows:

SEC. 15. In every case of the violation of any of the provisions of this joint resolution or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than $10,000, or imprisoned not more than two years, or both.

On November 4, 1939 the President issued a proclamation in respect to France; Germany; Poland; and the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa under the authority of Section 1 of the said Joint Resolution, thereby making effective in respect to those countries the provisions of Section 8 of the said Joint Resolution quoted above.

Section 13 of the said Joint Resolution provides as follows:

SEC. 13. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

The President's proclamation of November 4, 1939, referred to above, issued pursuant to the provisions of Section 1 of the above-mentioned Joint Resolution provides in part as follows:

And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred on me by the said joint resolution, as made effective by this my proclamation issued thereunder, which is not specifically delegated by executive order to some other officer or agency of this Government, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

In pursuance of those provisions of the law and of the President's proclamation of November 4, 1939, referred to above, the Secretary of State promulgates the following regulations.

(1) The term "person" as used herein and in the Act of November 4, 1939, includes a partnership, company, association, organization or corporation as well as a natural person.

(2) Any person within the United States, its territories, insular possessions (including the Philippine Islands), the Canal Zone, and the District of

Columbia who desires to engage in the solicitation or collection of contributions to be used for medical aid and assistance in France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa, or for food and clothing to relieve human suffering in any of those countries, and who is not acting for or on behalf of the governments of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa, or any agent or instrumentality of such countries, shall register with the Secretary of State. To this end, such person shall make application in duplicate to the Secretary of State upon the form provided therefor.

(3) Organizations or associations having chapters or affiliates shall list them in their application for registration and shall set forth therein the addresses of such chapters or affiliates. In case chapters or affiliates are formed after the registration of the parent organization, the parent should immediately inform the Secretary of State in order that its registration may be amended to name the new chapters or affiliates.

(4) No person shall solicit or collect contributions without having in his possession a notice from the Secretary of State of acceptance of registration which has not been revoked; Provided, however, that nothing in this regulation shall be construed as requiring a duly authorized agent of a registrant to have in his possession a notice of acceptance of registration. Chapters or affiliates named in the parent organization's registration may, of course, operate under this registration. Notices of acceptance of registration shall not be exhibited, used or referred to, in any manner which might be construed as implying official endorsement of the persons engaged in the solicitation or collection of contributions.

(5) All persons registered with the Secretary of State must maintain for his inspection or that of his duly authorized agent, complete records of all transactions in which the registrant engages.

(6) Persons receiving notification of acceptance of registration shall submit to the Secretary of State not later than the tenth day of every month following the receipt of such notification sworn statements, in duplicate, on the form provided therefore setting forth fully the information called for therein.

(7) The Secretary of State reserves the right to reject applications or to revoke registrations for failure on the part of the registrant to comply with the provisions or purposes of the law or of these regulations.

(8) A registrant may act as an agent for the transmittal abroad of funds received by another registrant, but such funds shall not be accountable as contributions received by the transmitting registrant.

(9) Any changes in the facts set forth in the registrant's application for registration, such as change of address, of officers, or of means of distribution abroad, should be reported promptly to the Secretary of State in the form of a supplemental application, in duplicate, properly sworn to.

(10) In view of the purposes and special status of "The American National Red Cross" as set forth in the Act of Congress approved January 5, 1905, entitled "An Act to incorporate the American National Red Cross" (33 Stat. 599), and particularly in view of the fact that it is required by law to submit to the Secretary of War for audit "a full, complete, and itemized report of receipts and expenditures of whatever kind," so that the submission to the Secretary of State of reports of funds received and expended would constitute an unnecessary duplication, "The American National Red Cross" is not required to conform to the provisions of these regulations.

(11) No registration will be accepted until satisfactory evidence is presented to the Secretary of State that the applicant for registration has organized an active and responsible governing body which will serve without compensation, and which will exercise a satisfactory administrative control, and that the funds collected by the registrant will be handled by a competent and trustworthy treasurer.

(12) No registration will be accepted if the means proposed to be used to solicit or collect contributions include the employment of solicitors on commission or any other commission method of raising money; the use of the "remit or return" method of raising money by the sale of merchandise or tickets; the giving of entertainments for money-raising purposes if the estimated costs of such entertainments, including compensation, exceed 30 percent of the gross proceeds, or any other wasteful or unethical method of soliciting contributions.

(13) No registration will be accepted until the Secretary of State has been informed in writing by a responsible officer of the applicant for registration that he has read these regulations.

(14) The Secretary will exercise the right reserved under regulation (7) to revoke any registration upon receipt of evidence which leads him to believe that the registrant has failed to maintain such a governing body as that described under regulation (11), has failed to employ such a treasurer as that described under regulation (11), has employed any of the methods for soliciting contributions set forth under regulation (12), has employed unethical methods of publicity, or has failed to attain a reasonable degree of efficiency in the conduct of operations.

(15) The sworn statement to be submitted by registrants in accordance with regulation (6) shall be supplemented by such further information as the Secretary of State may deem necessary

(16) Valid registrations under the rules and regulations governing the solicitation and collection of contributions for use in belligerent countries promulgated September 5, 9, and 11, and October 4, 1939, pursuant to Section 3 of the Neutrality Act of May 1, 1937, remain valid under these regulations.

[SEAL] CORDELL HULL
November 6, 1939 *Secretary of State*

REGULATIONS UNDER SECTION 2 (c) AND (i) OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939[1]

[November 10, 1939]

On November 4, 1939, the President issued a proclamation under the authority of Section 1 of the Joint Resolution of Congress approved on that same day finding that a state of war exists between Germany and France; Poland; and the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa and thereby making applicable to the export or transport to those countries of any articles or materials (except copyrighted articles or materials) the provisions of Section 2 (c), (d), (e), (f), (g), (h), (i), and (l) of the said Joint Resolution.

The President's Proclamation of November 4, 1939, provides in part as follows:

> And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred on me by the said joint resolution as made effective by this my proclamation issued thereunder, which is not specifically delegated by Executive order to some other officer or agency of this Government, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

By virtue of the authority vested in him by the President's proclamation quoted above to promulgate such rules and regulations not inconsistent with law which may be necessary and proper to carry out the provisions of Section 2 (c) and (i) of the Joint Resolution of Congress approved November 4, 1939, as made effective by this proclamation, the Secretary of State prescribes the following rules and regulations:

(1) The provisions of Section 2 (c) do not apply to personal effects and household goods or any other articles or materials intended for the personal use of any United States citizen traveling on a valid passport.

(2) The provisions of Section 2 (c) do not apply to any articles or materials exported for relief purposes by the American Red Cross or by any person or organization authorized to solicit and collect contributions under the rules and regulations issued by the Secretary of State pursuant to Section 8 of the Neutrality Act of November 4, 1939.

(3) The provisions of Section 2 (c) do not apply to the transport to any of the countries named in the President's Proclamation of November 4, 1939, referred to above, of arms and ammunition intended exclusively for sporting or scientific purposes, when carried on the person of an individual or in his baggage.

(4) Articles and materials the shipment of which originated outside the geographic United States and which are shipped through the United States in bond or which arrive at a port in the United States merely as an incident of transit between two foreign points, whether or not transshipped in a port of the United States, need not be covered by the sworn

[1] Federal Register, Nov. 16, 1939, Vol. 4, No. 222, p. 4598; Department of State Bulletin, Nov. 11, 1939, Vol. I No. 20, p. 485.

declaration as to transfer of title required by Section 2 (c) of the Neutrality Act of 1939 if the shipper is outside the geographic United States and is not a citizen of the United States, or an agent of such citizen, and the articles and materials are not consigned to a citizen of the United States, or an agent of such citizen.

CORDELL HULL
Secretary of State

[SEAL]

REGULATIONS UNDER SECTION 2 (c) AND (i) OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939 [1]

[November 25, 1939]

By virtue of the authority vested in him by the President's Proclamation of November 4, 1939, to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of Section 2 (c) and (i) of the Joint Resolution of Congress approved November 4, 1939, as made effective by that proclamation, the Secretary of State hereby prescribes the following regulation supplementary to those prescribed on November 10, 1939:

(5) The shipper's declaration (oath) required by Section 2 (c) of the Neutrality Act of 1939 must be filed with the Collector of the Port from or through which articles or materials are exported prior to the exportation from the United States of such articles or materials. If the required declarations (oaths) have not been filed with regard to all articles and materials on any vessel before clearance thereof, the vessel may nevertheless be cleared if, but only if, the Collector of Customs to whom request for clearance is made is satisfied that the transfer of right, title and interest required by Section 2 (c) has been made as to all such articles and materials. All failures by shippers to file the declarations (oaths) as required by this regulation shall be referred to the United States Attorney having jurisdiction.

CORDELL HULL
Secretary of State

[SEAL]

Analysis of Requirements of Section 2 of the Neutrality Act of 1939 [2]

(COMMERCE WITH STATES ENGAGED IN WAR)

[November 25, 1939]

I. American vessels (including aircraft) are prohibited from carrying passengers or any articles or materials to any state named as a belligerent in a proclamation issued by the President.

A. Exceptions:

[1] Federal Register, Nov. 28, 1939, Vol. 4, No. 229, p. 4701; Department of State Bulletin, Nov. 25, 1939, Vol. I, No. 22, p. 588.

[2] Department of State Bulletin, Nov. 18, 1939, Vol. I, No. 21, p. 551.

1. Transportation of any passengers or any articles or materials by American vessels (including aircraft) on or over lands, lakes, rivers, and inland waters bordering on the United States.
2. Transportation by American vessels, other than aircraft, of mail, passengers, or any articles or materials, except arms, ammunition, or implements of war, to any port
   a. in the Western Hemisphere north of 35° north latitude and west of 66° west longitude;
   b. in the Western Hemisphere south of 35° north latitude;
   c. or the Atlantic Ocean or its dependent waters south of 30° north latitude; or
   d. or the Pacific or Indian Oceans or their dependent waters;

   provided, that no such port is included within a combat area.
3. Transportation by aircraft of mail, passengers, or any articles or materials, except arms, ammunition, or implements of war, to any port
   a. in the Western Hemisphere; or
   b. or the Pacific or Indian Oceans or their dependent waters;

   provided, that no such port is included within a combat area.
4. Transportation, as described in (1), (2) and (3) above, of arms, ammunition, and implements of war, if they are to be used exclusively by American vessels, aircraft, or other vehicles in connection with their operation and maintenance.

II. All right, title, and interest in any articles or materials (except copyrighted articles or materials) to be exported or transported to a belligerent country must be transferred to foreign ownership at the port of lading in the United States, before the articles or materials are so exported or transported, or attempted to be so exported or transported, or caused to be so exported or transported.

A. Exceptions:

1. Transportation of articles or materials, other than arms, ammunition, or implements of war, by American vessels (including aircraft) on or over lakes, rivers, and inland waters bordering on the United States, or by vehicles or aircraft on or over lands bordering on the United States.
2. Transportation by American vessels, other than aircraft, of mail or any articles or materials, except arms, ammunition, or implements of war, to any port
   a. in the Western Hemisphere north of 35° north latitude and west of 66° west longitude;
   b. in the Western Hemisphere south of 35° north latitude;
   c. or the Atlantic Ocean or its dependent waters south of 30° north latitude; or
   d. or the Pacific or Indian Oceans or their dependent waters;

   provided, that no such port is included within a combat area.
3. Transportation by aircraft of mail or any articles or materials, except arms, ammunition, or implements of war, to any port
   a. in the Western Hemisphere; or
   b. or the Pacific or Indian Oceans or their dependent waters;

   provided, that no such port is included within a combat area.
4. Transportation by a neutral vessel to any port referred to in (2) above, of any articles or materials, other than arms, ammunition, or implements of war,

   provided, such port is not included in a combat area.
5. Transportation, as described in (1), (2) and (3) above, of arms, ammunition, and implements of war, if they are to be used exclusively by American ves-

sels, aircraft, or other vehicles in connection with their operation and maintenance.

(NOTE: There is no exception in the case of transportation by a vessel of a belligerent state.)

B. Issuance of bill of lading under which title passes unconditionally to foreign purchaser upon delivery of the articles or materials to a carrier constitutes transfer of right, title, and interest.

C. The shipper of such articles or materials is required to file with the collector of customs at the port of lading a declaration under oath that he has complied with the requirements of law regarding transfer of right, title, and interest, and that he will comply with such rules and regulations as shall be promulgated from time to time.

III. In the event of transportation by American vessels (including aircraft) as described in I A (2) and (3), and II A (2) and (3), and by neutral vessels (including aircraft) as described in II A (4), every such vessel or aircraft shall, before departing from the jurisdiction of the United States, file with the collector of customs of the port of departure, or, if no collector at such port, with the nearest collector of customs, a sworn statement containing

A. a complete list of all articles or materials carried as cargo, and the names and addresses of the consignees of all such articles and materials, and

B. a statement of the ports at which such articles and materials are to be unloaded and of the ports of call of the vessel.

NOTE: Section 7 of the Neutrality Act forbids the extension of credit to the government of any belligerent state or political subdivision thereof or to any person acting for or on behalf of such government or political subdivision. It does not forbid the extension of credit to any person in a belligerent state who is not acting for or on behalf of a belligerent government or any political subdivision thereof, except that no credit of any kind may be extended to any person whatsoever in a belligerent state in connection with the sale of arms, ammunition, and implements of war as defined in the President's Proclamation of May 1, 1937. Articles and materials other than arms, ammunition and implements of war may, therefore, be sold on credit to private persons or firms in belligerent states, provided those persons or firms are not acting for or on behalf of a belligerent government or a political subdivision thereof.

It may be added that Section 7 of the Act does not apply to the extension of credit to the governments of neutral states or to persons or firms in those states, unless those persons or firms should be acting for or on behalf of the government of a belligerent state or a political subdivision thereof.

INTER-AMERICAN NEUTRALITY COMMITTEE [1]

RECOMMENDATIONS AND RESOLUTIONS SUBMITTED TO THE GOVERNMENTS OF THE AMERICAN REPUBLICS THROUGH THE PAN AMERICAN UNION

[Translations supplied by the Pan American Union]

RECOMMENDATION RELATIVE TO INTERNMENT

Rio de Janeiro, January 26, 1940

WHEREAS:

1. Internment is a standard of international law, in that it rests on the obligation which the neutral State has to prevent or impede the perpetration of hostile acts against any of the belligerents within its territory; but internment is also a standard of internal law, in so far as the means, the form and the organs which shall be utilized to make it effective are concerned; all of which signifies that both in law and fact interned individuals should be subject to the sovereignty of the neutral State in which they find themselves;

2. That with respect to the two aspects of the question of internment referred to in the preceding paragraph, there should be considered on the one hand, in so far as they may be applicable, the general principles of international law and the provisions of the Conventions V and XIII of The Hague of October 18, 1907, concerning the rights and duties of neutral powers and persons; and, on the other hand, the internal laws which the American nations may have promulgated on this subject;

3. That although the aforesaid Conventions of The Hague have not been ratified by all the American States, many of these States have declared their neutrality in conformance with the rules contained in these instruments, which give these rules effect within the confines of the respective State; but neither the said conventions, notwithstanding the authority which it is recognized they possess, nor the internal legislation of the American States in effect up to the present with respect to the question of neutrality, envisage in a specific manner the problems which relate to the status, activities, sustenance and occupation of interned persons, their concentration and custody, nor the other questions that may arise between the neutral State that decrees the internment, the interned persons, and the belligerent State to which they belong;

4. That while internment may not be looked upon as a penalty or sanction applied against the persons involved, it constitutes in reality a measure of

[1] Established pursuant to paragraph 5 of the General Declaration of Neutrality approved at the meeting of the Ministers of Foreign Affairs of the American Republics, held at Panama, Sept. 23–Oct. 3, 1939 (this JOURNAL, Supplement, January, 1940 (Vol. 34), p. 12).

Members: Afranio de Mello Franco, Brazil, Chairman; L. A. Podestá Costa, Argentina; Mariano Fontecilla, Chile; A. Aguilar Machado, Costa Rica; Charles G. Fenwick, United States; Roberto Cordova, Mexico; Gustavo Herrera, Venezuela.

international precaution, applied by the neutral which decrees it and whose object is the protection and effective application of its own rights and duties, through the rendering of the interned persons incapable of executing hostile acts, rejoining the armed forces to which they belonged or contributing directly or indirectly to the continuance of hostilities;

5. That the liberty of the personal activities of the interned person should be restricted only in so far as it may be indispensable for the effectiveness of the internment, under conditions established by the neutral State; for which reason it is evident that once the internment has been effected, the belligerent of whose forces the interned person was a part should not control the status, occupation or activity of the interned person nor claim that he should continue in its service or under its orders in any manner, seeing that such dependence, in addition to implying a restriction of the sovereignty of the neutral, would be a source of dangerous controversies and could render the internment illusory and nugatory

6. That even though there has existed a tendency, in the sources to which reference has been made above, and particularly after the Conventions V and XIII of The Hague of 1907, to consider as a rule of internment the possibility of giving liberty to interned officers, upon their word of honor not to again take part in the hostilities or to depart from the country where they are interned, a privilege not extended to the other individuals of interned belligerent forces, this principle, in addition to being contrary to the obligation which the military have towards their own country, contradicts, in view of the discrimination that it implies with respect to the dignity and responsibility of all men, the fundamental democratic principles of the political and social organization of all the American States, and an attempt should consequently be made to eliminate it from their legislations;

The Inter-American Neutrality Committee

RESOLVES:

First. To recommend to the States, members of the Pan American Union, for the purpose of obtaining uniformity of the standards which govern internment, the adoption in their respective laws of the following provisions:

ARTICLE 1. The neutral State will intern in its territory, until the termination of the war, all individuals belonging to the land, sea or air forces of the belligerents, who individually or collectively enter its territory, as well as all officers and crews of warships, military airplanes and ships considered auxiliary vessels of war, in all cases in which the interning of the said ships and airplanes is appropriate. There are excepted the cases in which the naval forces may navigate in or be admitted to neutral ports, but the officers and crew who remain on land after the warship, military airplane or auxiliary vessel has departed from the port will be subject to internment. The elements of war carried by the persons interned shall be retained by the neutral

State and returned to the respective belligerent State on the termination of the war.

ARTICLE 2. The wounded or sick of the forces of the belligerents may cross the territory of a neutral State, with the permission of the said State, and on condition that the means of transportation utilized for the purpose shall not transport personnel nor material of war. The neutral State should take the necessary measures of supervision and control to insure compliance with this provision.

The wounded or sick of a belligerent State who enter the territory of a neutral State with the forces of the other belligerent, as well as those of a belligerent State whose forces entrust them to the neutral State, should be interned.

ARTICLE 3. Escaped prisoners of war who enter the territory of a neutral State, as well as those who may be conducted through the same territory by belligerent forces, shall be set free, but if the neutral State permits them to remain in its territory, it may intern them.

ARTICLE 4. The officers and crew of belligerent ships and airships that, as a result of shipwreck or accident, or for any other reason, voluntary or involuntary, should reach, or be transported over neutral territory, shall be interned, with the exception of those who may be within the case mentioned in the following article.

ARTICLE 5. Individuals who, in the judgment of the neutral State, are absolutely physically incapable of serving or coöperating in the war, shall not be interned. These individuals shall be helped by the neutral State, but should be repatriated by the State to which they belong as soon as possible and in any case at the termination of the war.

ARTICLE 6. Interned persons are subject to the jurisdiction of the neutral State in which they reside. During internment they shall cease to be dependent upon the belligerent State in whose service they were, and the said belligerent State may not modify the juridical status of the person interned in such a manner as to alter the effects of the internment.

ARTICLE 7. The neutral State shall:

I. Decide in each case whether the internment shall be made individually or collectively;

II. Determine the district or place within its own territory where the interned person shall reside;

III. Determine the activities that shall be permitted the interned person, as well as the restrictions and prohibitions which may be imposed upon his liberty of action.

IV. Decide upon the measures of security or supervision that it may consider necessary to give effect to the provisions of the foregoing clauses;

V. Decide whether there should remain on board interned ships, under proper surveillance, the crew members that may be indispensable for the maintenance of the ships;

VI. Modify, whenever it considers it necessary, the foregoing measures and provisions.

ARTICLE 8. In adopting the necessary regulations to give effect to clause III of the preceding article, the neutral State should have in mind the standard that it is desirable that interned persons should gain their own livelihood through activities of a private character, free of all dependence upon or subordination to any of the belligerents. The neutral State may offer them occupation, especially in public works or services, when it may consider this desirable.

During the time that the interned persons are unable to gain their own livelihood, they shall receive from the neutral State the lodging, food, clothing and assistance required by reasons of humanity. The neutral State shall have the right to receive from the belligerent State to which the interned persons belong, periodic reimbursements for the expenditures occasioned by the internment, which reimbursements cannot in any case cease or be affected by delay or failure of payment.

Second. The foregoing recommendation may be adopted by the American Republics, should they consider it desirable, when this does not contravene conventional principles in effect in each case, or they may adopt it to the extent that the recommendation may be considered as interpretative of these principles.

RECOMMENDATION RELATIVE TO THE ENTRY OF SUBMARINES INTO THE PORTS AND TERRITORIAL WATERS OF THE AMERICAN REPUBLICS

Rio de Janeiro, February 2, 1940

CONSIDERING:

1. That although the use of submarines, in view of their characteristics, has given rise to very difficult problems for the neutrals, there are no conventions in existence which regulate the matter;

2. That the majority of the national laws of neutral States which relate to the navigation in territorial waters by submarines has adopted, in principle, the exclusion of such naval craft; and that neutral States which have not enacted legislation on the subject, have adopted the practice of assimilating belligerent undersea craft to other warships, in all matters relating to the navigation by such craft in jurisdictional waters;

3. That the majority of the Committee considered it desirable to recommend the exclusion of submarines from neutral ports and harbors, being led to that conclusion not only by the difficulties attending the regulation of the activities of submarines but by a desire to give expression in that manner to the universal reprobation of the use of submarines as commerce destroyers; nevertheless, the Committee should take into account the practical circumstances confronting the adoption of a rule of strict exclusion of submarines;

4. That in the General Declaration of Neutrality of Panama of October 3, 1939, it is provided that the American States may exclude submarines

from their ports, harbors or territorial waters, or may specify the conditions of their admission into the said ports, harbors or territorial waters;

5. That upon the adoption by the neutral States of the prohibition of the admission of belligerent submarines into their jurisdictional waters, exceptions should be made of those cases of *force majeure* in which the submarines may be compelled to navigate in the said waters or arrive in port, and also the case of territorial waters in which, by reason of being natural or necessary commercial routes, the freedom of navigation has been recognized by customary or conventional law;

6. That neutral States which decide to permit the entry of belligerent submarines in their jurisdictional waters or ports, should nevertheless subject their navigation and their entry into port to certain conditions, in behalf of the security of the States and their neutrality;

7. That in drafting these rules the Committee has only had in mind submarines which have the character of warships or which are equipped for war purposes, inasmuch as it has not made a special study or report of any character with respect to submarines which are not designed for use in war;

8. That, in conformity with the foregoing considerations, it is desirable and advantageous that the American Republics adopt with respect to the present war certain standards of conduct which will affirm their status of neutrals; it being understood that the Committee, in recommending these standards, does not thereby contemplate in any manner the possibility of conflicts between American States, in view of the fact that these States have categorically proscribed war as a means of solving international controversies and have agreed upon methods for the pacific settlement of such controversies,

The Inter-American Neutrality Committee

RESOLVES TO RECOMMEND:

I

That the American Republics which, in accordance with the General Declaration of Neutrality signed at Panama (letter K, Declaration V of October 3, 1939),[1] decide to exclude belligerent submarines from their ports, harbors or territorial waters, shall except from this prohibition the following cases of *force majeure:* (a) necessity of seeking refuge for reasons of the condition of the sea; (b) urgent necessity of making repairs; (c) requirements of a humanitarian nature.

(1) That in such cases the neutral require that the submarines shall run on the surface with their superstructure clearly visible and the national flag flying and give the international signal indicative of the cause which forces them to enter into the port or navigate in territorial waters, and also require them to follow the routes and channels of navigation, where such exist, indicated by the local government.

[1] Printed in this JOURNAL, Supplement, January, 1940 (Vol. 34), p. 12.

(2) That territorial waters in which an international freedom of passage has been granted by customary or by conventional law be excluded from the prohibition of access of submarines.

III

That the American Republics which, in accordance with the General Declaration of Neutrality signed at Panama (letter K, of Declaration V of October 3, 1939), decide to admit belligerent submarines in their territorial waters, shall do so under the following conditions:

(1) Submarines shall run on the surface with their superstructure clearly visible and the national flag flying; and they shall follow the routes or channels of navigation, where there are such, indicated by the local government;

(2) In the case of entrance into ports or harbors, special permission must be obtained from the neutral government in each particular instance.

IIC

That in all cases where belligerent submarines are permitted to enter territorial waters or ports of neutral States in conformity with the provisions of Articles 1 and 2, they shall be subjected to the general rules governing belligerent surface warships, in so far as no special regulations exist with respect to submarines.

IV

That the acts or omissions which, in the judgment of the neutral State, constitute a violation on the part of the belligerent submarine of the rules contained in the foregoing paragraphs, shall be sufficient cause for the internment of the submarine, and its officers and crew, until the termination of the war.

V

That the neutral State establish, with respect to the navigation by neutral submarines in their jurisdictional waters the condition that the said submarines submit to the rule of the first paragraph of No. 2, in order that they may be identified and thus avoid that they be confused with belligerent ships.

RESOLUTION ON VESSELS USED AS AUXILIARY TRANSPORTS OF WARSHIPS

Rio de Janeiro, February 2, 1940

CONSIDERING:

1. That, in view of the incidents that have occurred in connection with vessels used as auxiliary transports of belligerent fleets, it would be desirable to adopt standards with respect to merchant ships which, in ports or jurisdictional waters of the neutrals put themselves in any way at the service of warships flying a belligerent flag or get in touch with them in violation of neutrality;
2. That there are certain recognized general principles of neutrality established by customary or by conventional law regulating the rights and duties of neutral States in this respect

3. That these principles recognize both the right and the duty of neutral States to exercise control of the activities of merchant ships, whether of belligerent or neutral nationality, within their ports, harbors or jurisdictional waters and to use the means at their disposal to prevent the commission of any act which might compromise their neutrality;
4. That merchant ships of foreign nationality, as well as their officers and crews, are subject to the jurisdiction of the State in whose ports, harbors or jurisdictional waters they are present in all matters respecting the security and peace of the said State and the observance of the standards of neutrality;
5. In view of these considerations, and without prejudice to the formulation in the future of more complete rules in this respect,

The Inter-American Neutrality Committee

RESOLVES:

To submit to the American States the following recommendations:

I

The neutral State must take the means at its disposal to prevent its ports, harbors and territorial waters from being utilized as bases of belligerent operations in violation of the rules of international law, and for this purpose it must likewise control the operation of merchant vessels, whether of belligerent or neutral nationality, so as to prevent them from using the said ports, harbors or jurisdictional waters as bases from which to give assistance to the belligerents.

II

Merchant vessels, whether of belligerent or of neutral nationality, must, while in neutral ports, harbors or jurisdictional waters, be prevented from maintaining any contact with warships of belligerents by means of which such warships might receive assistance. Any assistance given by a merchant ship of belligerent nationality to a warship shall have the effect of constituting the merchant ship into an auxiliary belligerent vessel of war.

Merchant ships that give belligerents services of a purely humanitarian character, either spontaneously or in response to a call for help, shall not be considered as auxiliaries of the said warships. It shall be up to each neutral State to decide whether the services given are of an exclusively humanitarian character.

III

The auxiliary transports referred to hereinabove, together with their officers and crews, shall be assimilated to belligerent warships and shall be subject to the rules of internment.

The period of internment of the vessel shall be the duration of the war, and the neutral State shall designate the harbors or roadsteads which in its judgment are appropriate for this purpose. The neutral State may adopt the

necessary measures to render the vessel incapable of navigating during the period indicated; it may also establish a guard on board, and take any other measures of surveillance that it considers necessary.

The internment of officers and crew shall be made in accordance with the rules on the subject recommended by the Inter-American Neutrality Committee on January 26, 1940.[1]

IV

Any assistance of the character mentioned in number II given by neutral merchant ships shall subject the captain and responsible officers of the said ship to the penalties provided by local legislation.

Civil liability may attach to the owner of the ship, and he may be held responsible for the payment of the pecuniary penalties; the ship itself and its cargo shall be subject to these obligations.

V

Merchant ships shall not be allowed to take on arms or material of war, persons, provisions or fuel in neutral ports with intent to deliver the same to belligerent warships on the high seas.

The observance of this prohibition shall be made effective by the following regulations, among others:

1. In all cases:
   (a) Rigid inspection in each port of the ship's manifest and other papers showing the cargo taken on board in the port;
   (b) Written declaration by the captain and the agent or owner of the ship that the ship will be used only for commercial purposes, and that it will not engage in any belligerent activity whatever; the declaration shall indicate the destination and itinerary of the ship, and contain a promise that the cargo will not be delivered in any port other than the one of destination and that it will not be delivered to ships of belligerent nationality;
   (c) Adoption of penalties for cases of false statements or misrepresentations in the declaration referred to in the preceding clause, as well as for other cases of subterfuge relative to the identity of the ship.
2. In suspicious cases, when there is reasonable ground for believing that the cargo is not intended to be delivered in the port of declared destination, there shall also be required:
   (a) The obligation to prove the delivery of the cargo in the port of declared destination, through the presentation, on the return trip, of a certificate of delivery issued in the port of destination;
   (b) The execution of a bond to be forfeited, except in cases of *force majeure*, when the certificate mentioned in the preceding clause is not presented.

[1] Printed *supra*, p. 75.

NORWEGIAN SOVEREIGNTY IN THE ANTARCTIC

PROCLAMATION [1]

January 14, 1939

We HAAKON, King of Norway, do hereby proclaim:

That part of the mainland coast in the Antarctic extending from the limits of the Falkland Islands Dependencies in the west (the boundary of Coats Land) to the limits of the Australian Antarctic Dependency in the east (45° E. Long.) with the land lying within this coast and the environing sea, shall be brought under Norwegian sovereignty.

Given at Oslo Palace on the 14th day of January, 1939.

Under Our Hand and the Seal of the Realm.

HAAKON

[L.S.]

JOHAN NYGAARDSVOLD B. ROLSTED

Recommendation from the Ministry of Foreign Affairs of the 14th January, 1939, approved by Order in Council the same day:

By Order in Council of the 23rd January, 1928, Bouvet Island in the Antarctic Ocean was brought under Norwegian sovereignty, and by Order in Council of the 1st May, 1931, the same thing was done with Peter I Island in the same ocean.

Bouvet Island lies in 3° 24′ E. Long. and 54° 26′ S. Lat., *i.e.*, in that part of the Antarctic region often called the Atlantic Sector. Peter I Island is situated 90° 35′ W. Long. and 68° 50′ S. Lat., *i.e.*, in the Pacific Sector of the Antarctic region.

Our object in bringing these islands in the Southern Ocean under Norwegian sovereignty was to give the Norwegian whaling industry in that region points of support and to guard it against possible encroachment on the part of foreign Powers.

Since that time there have been discussions between the government authorities and the Norwegian interested parties as to whether it would not be right and useful to bring a part of the Antarctic mainland under Norwegian sovereignty.

Of this mainland with adjacent sea and islands, Great Britain brought under her dominion in 1908 the area that has been named the Falkland Island Dependencies. The region Ross Dependencies was brought under New Zealand in 1923; and the largest of all the Antarctic areas, from 160° to 45° E. Long., was brought under Australia in 1933. In this latter area, however, France had previously taken possession of a small area with a few islands, *viz.*, Adélie Land around 140° E. Long.

Bouvet Island lies in the ocean between the British and the Australian

[1] Text supplied by the Royal Norwegian Legation at Washington, D. C.

sectors. The land filling this intervening area is what has often been called the Atlantic Sector, and here no state has yet claimed sovereignty.

The mainland in this region long remained unknown and unexplored. We know that certain discovery expeditions long ago penetrated the seas adjacent to this mainland, *e.g.*, a Russian expedition in 1820 and two English expeditions in 1831 and 1843. But none of these expeditions got so far in as to sight land and still less to put people ashore.

It was not until 1929 that exploring expeditions reached the mainland in this part of the Antarctic, and these expeditions were Norwegian. In the summer of 1929–1930 the whaler Lars Christensen sent out an expedition under the command of Captain Riiser-Larsen, accompanied by Captain Lutzow-Holm, who did exploration work and took cartophotographs from the air along great areas of the country, including the region that was subsequently given the name of Kronprinsesse Märthas Land. On a second expedition in 1930–1931 fitted out by Lars Christensen a further large area was discovered and explored by airplane; that land was named Princesse Ragnhilds Land. It was to this land that Captain Riiser-Larsen and others came on an expedition they made with the support of the Norwegian Government in 1932–1933, and there, as well as at other points within the sector here in question, Norwegian whalers were close to the coast on many occasions during those years. Finally, in the summer of 1936–1937 Lars Christensen despatched still another expedition to the Antarctic, and on that occasion Lieutenant Widerøe piloted a plane over extensive areas, so that a great deal of new land was discovered and mapped both without and within the territory which the former expeditions had visited, a territory then explored between Dronning Mauds Land and Princesse Ragnhilds Land was named Prins Haralds Land. On all these expeditions practically the whole of the mainland within the Atlantic Sector bordering the sea was explored and mapped so well that we may say that not many parts of the Antarctic continent are better known.

It should be mentioned that Norwegian explorers, Roald Amundsen and others, have explored also other parts of the Antarctic, and in particular they have in recent years explored and mapped much of the land which was brought under Australia in 1933. There should, however, not be any question of Norway laying claim to any land that has previously been taken possession of by another state. This accords with the promise given by the Norwegian Government to Great Britain in 1929 to the effect that it would not raise any claim in respect of land within the region which had then been brought under the dominion of the British Empire.

But Norway considers that it may with full right claim dominion over that land which until now has lain unclaimed and which none but Norwegians have explored and mapped.

It is this very area which in recent years has been of capital importance to Norwegian whaling. This fishery is now prosecuted on the high seas, but as the summer advances the catches are made closer and closer to land. The

mainland coast in these parts runs approximately along the 70th degree of latitude and in the beginning of the summer—in December—the edge of ice is usually along the 60th degree. It is not until February that the factory boats draw near to shore.

A question that may have an important bearing on the freedom to be extended to whaling expeditions is the determination of the limit of territorial waters. But on this question there still exists a good deal of uncertainty. It has been maintained that the ice-limit in the Antarctic must be regarded as the limit of the continent, and Great Britain and the two British dominions that have taken land here have in the main drawn the limit along the 60th degree of latitude. What this implies in respect of the right to sovereignty does not appear to be quite clear; one thing is, however, certain, namely, that Norwegian whalers operating within this limit were for a number of years required to pay a licence.

For the very reason that such questions of territorial limits remain undecided, it is most desirable for the Norwegian whaling industry in those seas that Norway should hold dominion over a wide tract of the mainland with adjacent waters. Norway for her part will not claim any right to exclude other nations from the waters over which she might thus have dominion, or prevent them in any way from carrying whaling operations there. But Norwegian whalers should be ensured against the possibility of other nations excluding them from these waters or committing any action that might involve their industry in injury or loss.

The Norwegian Government has for a long time been alive to this requirement, and ever since the question arose it has been giving its attention to the preparation of an arrangement that would meet natural Norwegian demands. The government finds that the time has now come to take the final decision.

As mentioned above, Norway's right to bring the said unclaimed land under her dominion is founded on the geographical exploration work done by Norwegians in this region, in which work they have been alone.

The practical considerations which should lead to Norway's making use of the right it must thus be said to have won, arise from the Norwegian whaling operations in the Southern Ocean, and more particularly in the seas adjacent to the territory here in question.

The Ministry of Foreign Affairs therefore submits the following:

That Your Majesty be pleased to assent and subscribe to a presented draft of an Order in Council to the effect that such part of the coast of the Antarctic Continent as extends from the limits of the Falkland Islands Dependencies in the west (the boundary of Coats Land) to the limits of the Australian Antarctic Dependency in the east (45° E. Long.) with the territory lying within this coast and the adjacent seas, be brought under Norwegian sovereignty:

And that the Ministry of Justice be empowered to draw up regulations for the exercise of police authority within this region.

FINLAND—UNITED STATES

CONVENTION REGULATING MILITARY OBLIGATIONS OF PERSONS HAVING DUAL NATIONALITY [1]

Signed at Helsinki, January 27, 1939; ratifications exchanged October 3, 1939

The United States of America and the Republic of Finland, being desirous of regulating the question of exemption from military obligations of persons possessing the nationality of both the High contracting parties, have decided to conclude a convention for that purpose, and have appointed as their plenipotentiaries:

The President of the United States of America:

Mr. H. F. Arthur Schoenfeld, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Finland;

and

The President of the Republic of Finland:

Mr. Juho Eljas Erkko, Minister of Foreign Affairs of the Republic of Finland;

Who, having communicated to each other their full powers found to be in good and due form, have agreed as follows:

ARTICLE I

A person possessing the nationality of both the high contracting parties

[1] U. S. Treaty Series, No. 953. Press release by the Department of State, Oct. 11, 1939:

"The convention with Finland is one of the series of treaties and conventions concluded pursuant to a joint resolution of Congress approved by the President May 28, 1928 (Kelly resolution) by which the President was requested to negotiate treaties with foreign countries, providing that persons born in the United States of foreign parentage, and naturalized American citizens, should not be held liable for military service or any other act of allegiance during a stay in the foreign country. In accordance with this resolution treaties or conventions also have been concluded and brought into force with six other countries as follows: Albania, signed in 1932; Czechoslovakia, signed in 1928; Lithuania, signed in 1937; Norway, signed in 1930; Sweden, signed in 1932; and Switzerland, signed in 1937.

"Prior to the approval of the Kelly resolution bilateral naturalization treaties or conventions were concluded between the United States and a number of other countries. Such instruments are now in force between the United States and the following countries: Belgium, 1868; Brazil, 1908; Bulgaria, 1923; Costa Rica, 1911; Denmark, 1872; Great Britain, 1870; Haiti, 1902 and 1903; Honduras, 1908; Nicaragua, 1908 and 1911; Norway, 1869; Peru, 1907; Portugal, 1908; Salvador, 1908 Sweden, 1869; and Uruguay, 1908.

"A multilateral agreement to which the United States is a party, having the same purpose as the treaties and conventions concluded pursuant to the Kelly resolution, is the Protocol Relating to Military Obligations in Certain Cases of Double Nationality, signed at The Hague on April 12, 1930. This protocol is in force among Australia, including the territories of Papua and Norfolk Island and the mandated territories of New Guinea and Nauru, Belgium, Brazil, Colombia, Cuba, Great Britain and Northern Ireland and all parts of the British Empire which are not separate members of the League of Nations, India, the Netherlands, including Netherland Indies, Surinam and Curaçao, Salvador, Sweden, the United States of America and the Union of South Africa."

who habitually resides in the territory of one of them and who is in fact most closely connected with that party shall be exempt from all military obligations in the territory of the other party.

ARTICLE II

The present convention shall be ratified and the ratifications thereof shall be exchanged at Helsinki. It shall take effect in all its provisions on the day of the exchange of ratifications and shall continue in force for the term of ten years from that day.

If within six months before the expiration of ten years from the day on which the present convention shall come into force, neither high contracting party notifies the other of an intention of terminating the convention upon the expiration of the aforesaid period of ten years, the convention shall remain in full force and effect after the aforesaid period and until six months from such a time as either of the high contracting parties shall have notified to the other an intention of terminating the convention.

In witness whereof, the respective plenipotentiaries have signed the present convention and have affixed their seals thereto.

Done in duplicate, in the English and Finnish languages, both authentic, at Helsinki, this twenty-seventh day of January, nineteen hundred and thirty nine.

H F. ARTHUR SCHOENFELD [SEAL]

ELJAS ERKKO [SEAL]

SUPPRESSION OF CUSTOMS FRAUDS

EXCHANGE OF NOTES BETWEEN FRANCE AND THE UNITED STATES, PARIS, DECEMBER 10/12, 1936[1]

The French Minister for Foreign Affairs (Delbos) to the American Ambassador (Bullitt), December 10, 1936

[Translation]

MR. AMBASSADOR:

I have the honor to advise Your Excellency that the French Government is disposed, on condition of reciprocity, to apply, on and after December 15, 1936, the following provisions, with a view to the suppression of customs frauds, through the mutual assistance of the French and American Customs Administrations.

Article I. The Customs Administration of the United States of America and the French Customs Administration shall promptly communicate to each other all information at any time in their possession concerning imports and exports which might facilitate the suppression of smuggling or fraud in the other country.

Article II. Concerning direct or indirect shipments of merchandise between the United States of America or its possessions and France or

[1] U. S. Executive Agreement Series, No. 99.

its possessions, each of the administrations concerned shall send directly to the other, upon the latter's written request, all information which may be gathered from documents in its possession (entries, registration records, declarations, and other customs documents). Such documents, or duly authenticated or certified copies thereof may be used as evidence in proceedings or prosecutions in the courts.

Article III. The appropriate officers of the Governments of the United States of America and France, respectively, shall furnish upon request to duly authorized officers of the other government information concerning clearances of vessels or the transportation of cargoes, when the importation or exportation of any of the cargo carried is prohibited, restricted, or subject to the payment of duties or other exactions, or when the requesting officers suspect that the owners or persons in possession of any of the cargo intend to violate the laws of the requesting government, in respect of such cargo.

Article IV. It is agreed that the customs and other administrative officials of the Government of the United States of America and France, respectively, shall upon request of the competent authorities of one government made of the competent authorities of the other government, be directed to attend as witnesses and to produce such available records and files, or duly authenticated or certified copies thereof, as may be considered essential to the trial of civil or criminal cases in the courts of the country on whose behalf the request was made, and as may be produced compatibly with the public interest of the country of which the request was made.

The cost of transcripts of records, depositions, certificates and letters rogatory in civil or criminal cases, and the cost of first-class transportation both ways, maintenance and other proper expenses involved in the attendance of such witnesses shall be paid by the government requesting their attendance not later than at the time of their discharge by the court from further attendance at such trial. Letters rogatory and commissions shall be executed with all possible despatch and copies of official records or documents shall be authenticated or certified promptly by the appropriate officials in accordance with the provisions of the laws of the respective countries.

The American Ambassador (Bullitt) to the French Minister for Foreign Affairs (Delbos), December 12, 1936

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of December 10, 1936, concerning coöperation between the Customs Services of the United States of America and France for the suppression of frauds, and, in reply, to state that the American Government agrees to the following provisions, to become effective December 15, 1936, for this purpose:

[Here follow the articles of agreement, *mutatis mutandis*, as in the preceding note.]

PROTECTION OF INDUSTRIAL PROPERTY

[Translation from the French original]

CONVENTION OF UNION OF PARIS OF MARCH 20, 1883, FOR THE PROTECTION OF INDUSTRIAL PROPERTY, REVISED AT BRUSSELS DECEMBER 14, 1900, AT WASHINGTON JUNE 2, 1911, AT THE HAGUE NOVEMBER 6, 1925, AND AT LONDON JUNE 2, 1934

In force August 1, 1938 [1]

The President of the German Reich; the President of the Republic of Austria; His Majesty the King of the Belgians; the President of the United States of Brazil; the President of the Republic of Cuba; His Majesty the King of Denmark; the President of the Republic of Spain; the President of the United States of America; the President of the Republic of Finland; the President of the French Republic; His Majesty the King of Great Britain and Ireland and of the British Territories Beyond the Seas, Emperor of India; His Most Serene Highness the Regent of the Kingdom of Hungary; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Most Serene Highness the Prince of Liechtenstein; His Majesty the Sultan of Morocco; the President of the United States of Mexico; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Polish Republic (in the name of Poland and the Free City of Danzig); the President of the Portuguese Republic; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; the President of the Czechoslovak Republic; His Highness the Bey of Tunisia; the President of the Turkish Republic His Majesty the King of Yugoslavia,

Having deemed it expedient to make certain modifications and additions in the International Convention of March 20, 1883, for the creation of an International Union for the Protection of Industrial Property, revised at Brussels on December 14, 1900, at Washington on June 2, 1911, and at The Hague on November 6, 1925, have appointed as their plenipotentiaries, to wit:

The President of the German Reich:

His Excellency M. Leopold von Hoesch, German Ambassador in London.

Mr. Georg Klauer, President of the Patent Office.

Mr. Wolfgang Kühnast, Geh. Justizrat, Director in the Patent Office.

Mr. Herbert Kühnemann, Landgerichtsrat in the Ministry of Justice.

The President of the Republic of Austria:

Mr. le Hofrat Dr. Hans Werner, Chief Adviser in the Patent Office.

His Majesty the King of the Belgians:

Mr. Daniel Coppieters de Gibson, attorney at the Court of Appeals of Brussels.

[1] U. S. Treaty Series, No. 941. Ratified before July 1, 1938, by the United States, Denmark, Germany, United Kingdom of Great Britain and Northern Ireland, Japan (including Chosen, Taiwan and Karafuto), and Norway.

Mr. Thomas Braun, attorney at the Court of Appeals of Brussels.

The President of the United States of Brazil:

Mr. Julio Augusto Barboza-Carneiro, Commercial Attaché at the Brazilian Embassy in London.

The President of the Republic of Cuba:

Mr. le Dr. Gabriel Suárez Solar, Cuban Chargé d'Affaires in London.

His Majesty the King of Denmark:

Mr. N. J. Ehrenreich-Hansen, Director of the Administration of Industrial Property.

The President of the Republic of Spain:

His Excellency Don Ramón Pérez de Ayala, Ambassador of Spain in London.

Mr. Fernando Cabello Lapiedra, Director of the Office of Industrial Property.

Mr. José García Monge y de Vera, Assistant Chief and Secretary of the Register of Industrial Property.

The President of the United States of America:

The Honorable Conway P. Coe, Commissioner of Patents.

Mr. Thomas Ewing.

Mr. John A. Dienner.

The President of the Republic of Finland:

Mr. Joho Fredrik Kautola, Industrial Adviser, Chief of the Patent Office at the Ministry of Commerce and Industry.

The President of the French Republic:

In the name of the French Republic:

Mr. Marcel Plaisant, Senator, attorney at the Court of Appeals of Paris, Assistant Delegate for France at the League of Nations, member of the Technical Committee on Industrial Property.

Mr. Roger Cambon, Minister Plenipotentiary, Adviser of the French Embassy in London.

Mr. Georges Lainel, Director of Industrial Property in the Ministry of Commerce and Industry.

Mr. Georges Maillard, attorney at the Court of Appeals of Paris, Vice President of the Technical Committee on Industrial Property.

In the name of the States of Syria and the Lebanon:

Mr. Marcel Plaisant.

His Majesty the King of Great Britain, Ireland, and the British Territories Beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland:

Sir Frederick William Leith-Ross, K. C. B., K. C. M. G., Chief Economic Adviser to His Majesty's Government in the United Kingdom.

Mr. Mark Frank Lindley, LL.D., Comptroller General of Patents, Designs, and Trade Marks.
Sir William Smith Jarratt.

For the Commonwealth of Australia:

Mr. Bernhard Wallach, Commissioner of Patents, Registrar of Trade Marks, Registrar of Designs, Registrar of Copyrights.

For the Irish Free State:

Mr. John W. Dulanty, High Commissioner of the Irish Free State in London.
Mr. Edward A. Cleary, Controller of Industrial and Commercial Property.

His Most Serene Highness the Regent of the Kingdom of Hungary:

Mr. Zoltán Schilling, President of the Hungarian Royal Court of Patents.

His Majesty the King of Italy:

His Excellency Mr. Eduardo Piola Caselli, Senator, President of Chamber in the Court of Cassation.
His Excellency Prof. Amedeo Giannini, Senator, Minister Plenipotentiary, State Adviser.
Dr. Luigi Biamonti, Director of the Legal Office of the Confederation of Industry.
Dr. Alfredo Jannoni Sebastianini, Director of the Bureau of Intellectual Property.

His Majesty the Emperor of Japan:

His Excellency Massa-aki Hotta, Envoy Extraordinary and Minister Plenipotentiary of Japan in Prague.
Mr. Takatsugu Yoshiwara, Secretary General of the Office of Patents of Invention.

His Most Serene Highness the Prince of Liechtenstein:

Mr. Walther Kraft, Director of the Federal Bureau of Intellectual Property at Bern.

His Majesty the Sultan of Morocco:

His Excellency Viscount de Poulpiquet du Halgouët, Commercial Attaché of France in London.

The President of the United Mexican States:

Mr. Gustavo Luders de Negri, Consul General of Mexico in London.

His Majesty the King of Norway:

Mr. Birger Gabriel Wyller, Director General of the Office of Industrial Property.

Her Majesty the Queen of the Netherlands:

Dr. J. Alingh Prins, President of the Council for Patents of Invention, Director of the Office of Industrial Property at The Hague

Dr. Ing. J. van Hettinga Tromp, attorney at the High Court at The Hague.
Dr. A. D. Koeleman, adviser at The Hague.
Dr. H. F. van Walsem, attorney at Eindhoven.

The President of the Polish Republic (in the name of Poland and the Free City of Danzig):

In the name of the Polish Republic:

Mr. Stefan Czaykowski President of the Patent Office of the Polish Republic.

In the name of the Free City of Danzig:

Mr. Stefan Czaykowski.

The President of the Portuguese Republic:

Dr. João de Lebre e Lima, Portuguese Chargé d'Affaires in London.
Ing. Arthur de Mello Quintella Saldanha, Director of the Bureau of Industrial Property.

His Majesty the King of Sweden:

Dr. Carl Birger Lindgren, Section Chief at the Office of Patents and Registration.
Mr. Åke de Zweigbergk.

The Federal Council of the Swiss Confederation:

Mr. Walther Kraft, Director of the Federal Bureau of Intellectual Property.

The President of the Czechoslovak Republic:

Dr. Karl Skála, Adviser at the Ministry of Commerce.
Dr. Otto Parsch, Secretary at the Ministry of Commerce.

His Highness the Bey of Tunisia:

Mr. Charles Billecocq, Consul General of France in London.

The President of the Turkish Republic:

His Excellency Ali Fethi Bey Turkish Ambassador in London.

His Majesty the King of Yugoslavia:

Dr. Janko Choumane, President of the National Office for the Protection of Industrial Property.

Who, having communicated their respective full powers, which were found to be in good and due form, have agreed upon the following provisions:

ARTICLE 1

(1) The countries to which the present convention applies constitute themselves into a Union for the Protection of Industrial Property.

(2) The scope of the protection of industrial property shall include patents, utility models, industrial designs and models, trade marks, commercial names and indications of origin, or appellations of origin, as well as the repression of unfair competition.

(3) Industrial property shall be understood in the broadest meaning and shall apply not only to industry and commerce as such, but likewise to

agricultural and extractive industries and to all manufactured or natural products, for example, wines, grains, tobacco leaves, fruits, cattle, minerals, mineral waters, beers, flowers, flours.

(4) The term "patents" shall extend to the various types of industrial patents recognized by the laws of the countries of the Union, such as patents of importation, improvement patents, patents and certificates of addition, etc.

ARTICLE 2

(1) Nationals of each of the countries of the Union shall, in all other countries of the Union, as regards the protection of industrial property, enjoy the advantages that their respective laws now grant, or may hereafter grant, to their own nationals, without any prejudice to the rights specially provided for by the present convention. Consequently they shall have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided they observe the conditions and formalities imposed upon nationals.

(2) Nevertheless, no condition as to the possession of a domicile or establishment in the country where protection is claimed can be required of those who enjoy the benefits of the Union for the enjoyment of any industrial property rights.

(3) The provisions of the legislation of each of the countries of the Union relative to judicial and administrative proceedings and to competent authority, as well as to the choice of domicile or the appointment of an authorized agent, which may be required by the laws on industrial property are expressly reserved.

ARTICLE 3

Nationals of countries not forming part of the Union who are domiciled or who have real and effective industrial or commercial establishments in the territory of one of the countries of the Union shall be assimilated to the nationals of the countries of the Union.

ARTICLE 4

A. (1) Any person who has duly applied for a patent, the registration of a utility model, industrial design or model, or trade mark in one of the countries of the Union, or his legal representative or assignee, shall enjoy for the purposes of registration in other countries a right of priority during the periods hereinafter stated.

(2) Any filing having the value of a formal national filing by virtue of the internal law of each country of the Union or of international treaties concluded among several countries of the Union shall be recognized as giving rise to a right of priority.

B. Consequently, subsequent filing in one of the other countries of the Union before the expiration of these periods shall not be invalidated through

any acts accomplished in the interval, as, for instance, by another filing, by publication of the invention or the working thereof, by the sale of copies of the design or model, or by use of the trade mark, and these facts cannot give rise to any right of third parties or any personal possession. The rights acquired by third parties before the day of the first application on which priority is based shall be reserved by the internal legislation of each country of the Union.

C. (1) The above-mentioned periods of priority shall be 12 months for patents and utility models and 6 months for industrial designs and models and for trade marks.

(2) These periods shall start from the date of filing of the first application; the day of filing is not counted in this period.

(3) If the last day of the period is a legal holiday, or a day on which the Patent Office is not open to receive applications in the country where protection is claimed, the period shall be extended until the next working day.

D. (1) Any person desiring to take advantage of the priority of a previous application must make a declaration giving particulars as to the date of such application and the country in which it was made. Each country will determine the latest date at which such declaration must be made.

(2) The particulars referred to shall be stated in the publications issued by the competent authority, and in particular in the patents issued and the specifications relating thereto.

(3) The countries of the Union may require any person making a declaration of priority to produce a copy of the application (with the specification, drawings, etc.) previously made. The copy, certified as correct by the authority receiving this application, shall not require legal authentication, and in all cases it can be filed, without fee, at any time within the period of three months from the filing of the application. They may also require that the declaration later be accompanied by a certificate by the proper authority showing the date of application, and also by a translation.

(4) No other formalities may be required for the declaration of priority at the time application is filed. Each of the countries of the Union shall decide upon the consequences of the omission of the formalities prescribed by this article, but such consequences shall in no case exceed the loss of the right of priority.

(5) Further proof in support of the application may be required later.

E. (1) Where an application is filed in a country for the registration of an industrial design or model by virtue of a right of priority based on the registration of a utility model, the period of priority shall be the same as that fixed for industrial designs and models.

(2) Furthermore, it is allowable to deposit in a country a utility model by virtue of rights of priority based on a patent application, and *vice versa*.

F. No country of the Union can refuse an application for patent on the

ground that it claims multiple priorities provided there is unity of invention in the sense of the law of the country.

G. If the examination shows that an application for patent is complex, the applicant can divide the application into a certain number of divisional applications preserving as the date of each the date of the initial application, and the benefit of the right of priority, if any.

H. Priority cannot be refused on the ground that certain elements of the invention for which priority is claimed do not appear among the claims made in the application in the country of origin, provided that the application, as a whole, discloses precisely the aforesaid elements.

ARTICLE 4 *bis*

(1) Patents applied for in the various countries of the Union by persons entitled to the benefits of the Union shall be independent of the patents obtained for the same invention in other countries, whether or not such countries be parties to the Union.

(2) This stipulation must receive a strict interpretation; in particular, it shall be understood to mean that patents applied for during the period of priority are independent, both as regards the grounds for refusal and revocation and as regards their normal duration.

(3) This stipulation shall apply to all patents already existing at the time when it shall come into effect.

(4) The same stipulation shall apply, in the case of the accession of new countries, to patents in existence, either on one side or the other, at the time of accession.

(5) Patents obtained with the benefit of priority shall enjoy, in the different countries of the Union, a duration equal to that which they would have enjoyed if they had been applied for or granted without the benefit of priority.

ARTICLE 4 *ter*

The inventor shall have the right to be mentioned as such in the patent.

ARTICLE 5

A. (1) The introduction by the patentee into the country where the patent has been granted of objects manufactured in any of the countries of the Union shall not entail forfeiture.

(2) Nevertheless, each of the countries of the Union shall have the right to take the necessary legislative measures to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent; for example, failure to use.

(3) These measures will only provide for the revocation of the patent if the granting of compulsory licenses does not suffice to prevent these abuses.

(4) In any case the issuance of a compulsory license cannot be demanded before the expiration of three years beginning with the date of the granting

of the patent and this license can be issued only if the patentee does not produce acceptable excuses. No action for the cancelation or revocation of a patent can be introduced before the expiration of two years beginning with the issuance of the first compulsory license.

(5) The preceding provisions, subject to necessary modifications, shall be applicable to utility models.

B. The protection of designs and industrial models cannot be liable to cancelation either for failure to work or for the introduction of objects corresponding to those protected.

C. (1) If in a country the use of a registered mark is compulsory, the registration can be canceled only after a reasonable period, and if the interested party cannot justify the causes of his inaction.

(2) The use of a trade mark by the owner, in a form which differs by elements not altering the distinctive character of the mark, in the form under which it was registered in one of the countries of the Union, shall not entail invalidation of the registration, nor shall it diminish the protection accorded to the mark.

(3) The simultaneous use of the same mark on identical or similar products by industrial or commercial establishments considered as joint owners of the mark according to the provisions of the national law of the country where protection is sought shall neither prevent registration nor diminish in any way the protection accorded the said mark in any country of the Union, provided the said use does not result in inducing the public into error and is not contrary to public interest.

D. Articles shall not be required to bear any sign or mention of the patent, the utility model, or the registration of the trade mark or of the deposit of the industrial design or model for recognition of the right.

ARTICLE 5 *bis*

(1) A period of grace of at least three months shall be granted for the payment of charges prescribed for the maintenance of industrial property rights, subject to the payment of a surcharge, if the internal legislation so provides.

(2) For patents of invention, the countries of the Union undertake, moreover, either to prolong the extended period to six months at least, or to provide for the restoration of the patent which has lapsed owing to the nonpayment of fees, such provisions remaining subject to the conditions prescribed by internal legislation.

ARTICLE 5 *ter*

In each one of the countries of the Union, the following shall not be considered as infringing the rights of the patentee:

1°. The use on board ships of other countries of the Union of any article forming the subject matter of his patent in the body of the ship, in the machinery, tackle, rigging, and other accessories, when such ships shall enter

temporarily or accidentally the waters of the country, provided that such article is used there exclusively for the needs of the vessel.

2°. The use of any article forming the subject matter of the patent in the construction or operation of air or land locomotive engines of the other countries of the Union, or of accessories to these engines, when the latter shall enter the country temporarily or accidentally.

ARTICLE 6

A. Every trade mark duly registered in the country of origin shall be admitted for registration and protected in the form originally registered in the other countries of the Union under the reservations indicated below. These countries can demand, before proceeding to a final registration, the production of a certificate of registration in the country of origin issued by the competent authority. No legislation shall be required for this certificate.

B. (1) Nevertheless, the following marks may be refused or canceled:

1°. Those which are of such a nature as to infringe upon rights acquired by third parties in the country where protection is applied for.

2°. Those which have no distinctive character, or which consist exclusively of signs or indications which serve in trade to designate the kind, quality, quantity, destination, value, place of origin of the products, or time of production, or which have become customary in the current language, or in the *bona fide* and unquestioned usages of the trade in the country in which protection is sought. In arriving at a decision as to the distinctiveness of the character of a mark, all the circumstances of the case must be taken into account, and in particular the length of time that such a mark has been in use.

3°. Those which are contrary to morality or public order, especially those which are of a nature to deceive the public. It is to be understood that a mark cannot be considered as contrary to public order for the sole reason that it does not conform to some legislative requirement concerning trade marks, except in circumstances where this requirement itself concerns public order.

(2) Trade marks cannot be refused in the other countries of the Union on the sole ground that they only differ from the marks protected in the country of origin by elements not altering the distinctive character and not affecting the identity of the marks in the form under which they have been registered in the aforesaid country of origin.

C. The following shall be deemed the country of origin:

The country of the Union where the applicant has an actual and genuine industrial or commercial establishment; and, if he has not such an establishment, the country of the Union where he has his domicile; and, if he has not a domicile in the Union, the country of his nationality in the case where he is under the jurisdiction of a country of the Union.

D. When a trade mark shall have been duly registered in the country of origin, then in one or more of the other countries of the Union, each one of these national marks shall be considered, from the date on which it shall have been registered, as independent of the mark in the country of origin, provided it conforms to the internal law of the country of importation.

E. In no case shall the renewal of the registration of a trade mark in the country of origin involve the obligation of renewal of the registration of the mark in other countries of the Union in which the mark has been registered.

F. The benefits of priority shall subsist in trade-mark applications filed in the period allowed by Article 4, even when the registration in the country of origin is completed only after the expiration of such period.

ARTICLE 6 *bis*

(1) The countries of the Union agree to refuse or to invalidate either administratively, if their legislation so permits, or at the request of an interested party, the registration of a trade mark which constitutes a reproduction, limitation, or translation, liable to create confusion with a mark considered by the competent authority of the country of registration to be well known there as being already a mark of a person entitled to the benefits of the present convention and used for identical or similar products. The same shall apply when the essential part of the mark constitutes a reproduction of a well-known mark or an imitation likely to cause confusion therewith.

(2) A period of at least three years must be granted in order to claim the cancelation of these marks. The period shall start from the date of registration of the mark.

(3) No period shall be established to claim the cancelation of marks registered in bad faith.

ARTICLE 6 *ter*

(1) The countries of the Union undertake to refuse or invalidate registration, and to prohibit by appropriate means the use, failing authorization from the competent authority, whether as a trade mark or as the components of such, of all coats of arms, flags and other state emblems of countries of the Union, official control and guarantee signs and stamps adopted by them, and any imitation thereof from an heraldic point of view.

(2) The prohibition of official control and guarantee signs and stamps shall apply only in cases where marks which comprise them are intended to be used on merchandise of the same or a similar nature.

(3) For the application of these provisions the countries of the Union agree to communicate reciprocally, through the intermediary of the International Bureau of Bern, the list of state emblems and official control and guarantee signs and stamps which they desire, or will desire, to place, wholly or with certain reservations, under the protection of the present article, as well as any subsequent modifications added to the list. Each country of

the Union shall place the communicated list at the disposal of the public in due course.

(4) Each country of the Union may, within a period of twelve months from the receipt of the notification, and through the intermediary of the International Bureau of Bern, transmit its possible objections to any other country concerned.

(5) For state emblems which are well known, the provisions of paragraph 1 shall be applicable only to marks registered after November 6, 1925.

(6) For state emblems which are not well known, and for official signs and stamps, these provisions shall be applicable only to marks registered more than two months after the receipt of the notification contemplated in paragraph 3.

(7) In case of bad faith, the countries shall have the right to cancel even the marks registered before November 6, 1925, and embodying state emblems, signs, and stamps.

(8) Nationals of each country who are authorized to make use of state emblems, and signs and stamps of their country, may use them even if there be a similarity with those of another country.

(9) The countries of the Union undertake to prohibit the unauthorized use in trade of state coats of arms of other countries of the Union, when such use is liable to cause confusion as to the origin of the product.

(10) The preceding provisions shall not prevent the countries from exercising the right to refuse or to invalidate, by application of item 3°, paragraph (1), letter B, of Article 6, marks including, without authorization, coats of arms, flags, decorations, and other state emblems or official signs and stamps adopted by a country of the Union.

ARTICLE 6 *quater*

(1) When in accordance with the laws of a country of the Union the assignment of a mark is valid only if it takes place at the same time as the transfer of the enterprise or business and goodwill to which the mark belongs, it will suffice, for the admission of the validity of such transfer, that the part of the enterprise or business and goodwill which is located in this country be transferred to the assignee with the exclusive right therein to manufacture or sell products under the mark which has been assigned.

(2) This provision shall not impose upon the countries of the Union the obligation of considering as valid the transfer of any mark whose use by the assignee would, in fact, be of such a nature as to deceive the public, especially as regards the place of origin, the nature, or the material qualities of the products to which the mark is applied.

ARTICLE 7

The nature of the goods on which the trade mark is to be used can in no case form an obstacle to the registration of the trade mark.

ARTICLE 7 *bis*

(1) The countries of the Union undertake to allow the filing of and to protect collective marks belonging to associations, the existence of which is not contrary to the law of the country of origin, even if these associations do not possess an industrial or commercial establishment.

(2) Each country shall be the judge as to the particular conditions under which a collective mark shall be protected, and it can refuse protection if this mark is contrary to public interest.

(3) However, the protection of these marks cannot be refused to any association whose existence is not contrary to the law of the country of origin, on the ground that it is not established in the country where protection is sought, or that it is not organized in conformity with the law of that country.

ARTICLE 8

A trade name shall be protected in all the countries of the Union without the obligation of filing or registration, whether or not it forms part of a trade mark.

ARTICLE 9

(1) All goods illegally bearing a trade mark or trade name shall be seized at importation into those countries of the Union where this mark or name has a right to legal protection.

(2) Seizure shall likewise be effected in the country where the mark or name was illegally applied, or in the country into which the article bearing it has been imported.

(3) The seizure shall take place at the request either of the proper government department or of any other competent authority, or of any interested party, whether an actual or a legal person, in conformity with the domestic laws of each country.

(4) The authorities shall not be bound to effect the seizure in transit.

(5) If the law of a country does not permit seizure at importation, such seizure shall be replaced by prohibition to import or by seizure within such country.

(6) If the law of any country permits neither seizure at importation, nor prohibition to import, nor seizure within the country, and until such time as this law shall be accordingly modified, these measures shall be replaced by the remedies assured to nationals, in such cases, by the law of such country.

ARTICLE 10

(1) The stipulations of the preceding article shall be applicable to every product which may falsely bear as indication of origin, the name of a specified locality or country when such indication shall be joined to a trade name of a fictitious character or used with intent to defraud.

(2) Any producer, manufacturer, or trader engaged in the production, manufacture, or trade of such goods and established either in the locality

falsely designated as the place of origin, or in the district in which the locality is situated, or in the country falsely designated, or in the country where the false indication of origin is used, shall be deemed in all cases a party concerned, whether such person be actual or legal.

ARTICLE 10 *bis*

(1) The countries of the Union are bound to assure to nationals of countries of the Union an effective protection against unfair competition.

(2) Any act of competition contrary to honest practice in industrial or commercial matters constitutes an act of unfair competition.

(3) The following particularly are to be forbidden:

1°. All acts whatsoever of a nature to create confusion in any way whatsoever with the establishment, the goods, or the services of the competitor;

2°. False allegations in the conduct of trade of a nature to discredit the establishment, the goods, or the services of a competitor.

ARTICLE 10 *ter*

(1) The countries of the Union undertake to assure to the nationals of other countries of the Union appropriate legal remedies to repress effectively all acts set forth in Articles 9, 10, and 10 *bis*.

(2) They undertake, moreover, to provide measures to permit syndicates and associations representing the manufacturers, producers, or merchants interested, and of which the existence is not contrary to the laws of their country, to take action in justice or before the administrative authorities, with a view to the repression of the acts set forth in Articles 9, 10, and 10 *bis*, so far as the law of the country in which protection is claimed permits such action to the syndicates and associations of that country.

ARTICLE 11

(1) The countries of the Union shall, in conformity with their own national legislation, accord temporary protection to patentable inventions, to utility models, and to industrial designs or models, as well as to trade marks in respect of products which shall be exhibited at official, or officially recognized, international exhibitions held in the territory of one of them.

(2) This temporary protection shall not prolong the periods provided by Article 4. If later the right of priority is invoked, the competent authority of each country may date the period from the date of the introduction of the product into the exhibition.

(3) Each country may require, as proof of the identity of the object exhibited and of the date of introduction, such proofs as it may consider necessary.

ARTICLE 12

(1) Each one of the countries of the Union undertakes to establish a special government service for industrial property, and a central office for

communication to the public of patents, utility models, industrial designs, or models and trade marks.

(2) This service shall publish an official periodical paper. It shall publish regularly—

(*a*) The names of the owners of the patents granted with a short designation of the patented inventions;

(*b*) Reproductions of the marks which have been registered.

ARTICLE 13

(1) The international office, established at Bern under the name of International Bureau for the Protection of Industrial Property, is placed under the high authority of the Government of the Swiss Confederation, which is to regulate its organization and supervise its working.

(2) The official language of the International Bureau shall be French.

(3) The International Bureau shall centralize information of every kind relating to the protection of industrial property; it shall collect and publish such information. It shall make a study of all matters of common utility to the Union and shall prepare, with the help of documents supplied to it by the various administrations, a periodical paper in the French language, dealing with questions regarding the purpose of the Union.

(4) The numbers of this paper, as well as the documents published by the International Bureau, are circulated among the administrations of the countries of the Union in proportion to the number of contributing units as mentioned below. Such further copies as may be ordered, either by said administrations or by companies or private persons, shall be paid for separately.

(5) The International Bureau shall, at all times, hold itself at the service of members of the Union, in order to supply them with any special information they may need on questions relating to the international system of industrial property. The Director of the International Bureau will furnish an annual report on management which shall be communicated to all the members of the Union.

(6) The ordinary expenses of the International Bureau will be borne by the countries of the Union in common. Until further instructions, they must not exceed the sum of 120,000 Swiss francs per annum. This sum may be increased, in cases of necessity, by a unanimous decision of one of the conferences provided for by Article 14.

(7) The ordinary expenses shall not include the costs relating to the work of plenipotentiary or administrative conferences nor the costs brought about by special work or by publications made in conformity with the decisions of a conference. These costs, of which the annual amount cannot exceed 20,000 Swiss francs, shall be apportioned among the countries of the Union in proportion to their contribution for the working of the International Bureau in accordance with the provisions of paragraph (8) hereinafter.

(8) To determine the part which each country should contribute to this total of expenses, the countries of the Union and those which may afterwards join the Union shall be divided into six classes, each contributing in the proportion of a certain number of units, namely:

	Units
First class	25
Second class	20
Third class	15
Fourth class	10
Fifth class	5
Sixth class	3

These coefficients shall be multiplied by the number of countries in each class, and the sum of the results thus obtained shall give the number of units by which the total expense must be divided. The quotient shall give the amount of the unit of expense.

(9) Each one of the countries of the Union will designate, at the time of its accession, the class in which it wishes to be placed. However, each country of the Union may state later that it wishes to be placed in another class.

(10) The Government of the Swiss Confederation shall superintend the expenses of the International Bureau, advance the necessary funds, and render an annual account which shall be communicated to all the other administrations.

ARTICLE 14

(1) The present convention shall be submitted to periodical revisions with a view to the introduction therein of amendments calculated to improve the system of the Union.

(2) For this purpose conferences shall be held successively in one of the contracting countries between the delegates of the said countries.

(3) The administration of the country in which the conference is to be held shall prepare for the work of that conference, with the assistance of the International Bureau.

(4) The Director of the International Bureau shall be present at the meetings of the conferences, and shall take part in the discussions, but without the privilege of voting.

ARTICLE 15

It is agreed that the countries of the Union respectively reserve to themselves the right to make separately as between themselves special arrangements for the protection of industrial property in so far as such arrangements do not contravene the provisions of the present convention.

ARTICLE 16

(1) The countries which have not taken part in the present convention shall be permitted to adhere to it upon their request.

(2) Such adherence shall be notified through diplomatic channels to the

Government of the Swiss Confederation, and by the latter to all the other governments.

(3) It shall entail, as a matter of right, accession to all the classes, as well as admission to all the advantages stipulated in the present convention, and shall take effect one month after the dispatch of the notification by the Government of the Swiss Confederation to the other countries of the Union, unless a subsequent date has been indicated in the request for adherence.

ARTICLE 16 *bis*

(1) Each one of the countries of the Union may, at any time, notify the Government of the Swiss Confederation, in writing, that the present convention shall be applicable to all or a part of its colonies, protectorates, territories under mandate or all other territories subject to its authority, or all territories under sovereignty, and the convention shall apply to all territories specified in the notification one month after the sending of the communication by the Government of the Swiss Confederation to the other countries of the Union, unless a subsequent date has been indicated in the notification. In the absence of this notification, the convention shall not apply to these territories.

(2) Each one of the countries of the Union may, at any time, notify the Government of the Swiss Confederation, in writing, that the present convention has ceased to be applicable to all or a part of the territories which have been made the object of the notification provided for in the preceding paragraph, and the convention shall cease to apply in the territories designated in this notification twelve months after receipt of the notification addressed to the Government of the Swiss Confederation.

(3) All notifications sent to the Government of the Swiss Confederation, in conformity with the provisions of paragraphs 1 and 2 of the present article, shall be communicated by this government to all the countries of the Union.

ARTICLE 17

The execution of the reciprocal engagements contained in the present convention shall be subordinated, in so far as necessary, to the observance of the formalities and rules established by the constitutional laws of those of the countries of the Union which are bound to enforce the same, which they undertake to do with as little delay as possible.

ARTICLE 17 *bis*

(1) The convention shall remain in force for an unlimited time, until the expiration of one year from the date of its denunciation.

(2) This denunciation shall be addressed to the Government of the Swiss Confederation. It shall be effective only for the country in whose name it shall have been made, the convention remaining in operation as regards the other countries of the Union.

ARTICLE 18

(1) The present act shall be ratified and the instruments of ratification shall be deposited in London not later than the 1st of July 1938. It shall come into force, between the countries in whose names it shall have been ratified, one month after such date. However, if before July 1, 1938, it is ratified in the name of at least six countries, it shall come into force between those countries one month after the Government of the Swiss Confederation has notified them of the deposit of the sixth ratification, and for the countries in whose names it shall have been ratified thereafter, one month after the notification of each of these ratifications.

(2) The countries in whose names no instruments of ratification shall have been deposited within the period of time contemplated in the preceding paragraph shall be permitted to adhere under the terms of Article 16.

(3) The present act shall replace, as regards relations between the countries to which it applies, the Convention of the Union of Paris of 1883 and the subsequent acts of revision.

(4) As regards the countries to which the present act does not apply, but to which the Convention of the Union of Paris, as revised at The Hague in 1925, does apply, the latter shall remain in force.

(5) Likewise, as regards the countries to which neither the present act nor the Convention of the Union of Paris, as revised at The Hague, applies, the Convention of the Union of Paris as revised in Washington in 1911 shall remain in force.

ARTICLE 19

The present act shall be signed in a single copy, which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland. A certified copy shall be forwarded by the latter to each of the governments of the countries of the Union.

Done at London in a single copy, on June 2, 1934.

For Germany:
HOESCH
GEORG KLAUER
WOLFGANG KÜHNAST
HERBERT KÜHNEMANN

For Austria:
DR. HANS WERNER

For Belgium:
COPPIETERS DE GIBSON
THOMAS BRAUN

For the United States of Brazil:
J. A. BARBOZA-CARNEIRO

For Cuba:
GABRIEL SUÁREZ SOLAR

For Denmark:
N. J. EHRENREICH-HANSEN

For the Free City of Danzig:

For Spain:
RAMÓN PÉREZ DE AYALA
FERNANDO CABELLO LAPIEDRA
JOSÉ GARCÍA MONGE

For the United States of America:
CONWAY P. COE
JOHN A. DIENNER
THOMAS EWING

For Finland:
J. KAUTOLA

For France:
MARCEL PLAISANT
ROGER CAMBON
GEORGES LAINEL
GEORGES MAILLARD
For Great Britain and Northern Ireland:
F. W. LEITH-ROSS
M. F. LINDLEY
WILLIAM S. JARRATT
For Australia:
B. WALLACH
For the Irish Free State:
For Hungary:
SCHILLING ZOLTÁN
For Italy:
EDUARDO PIOLA CASELLI
LUIGI BIAMONTI
ALFREDO JANNONI
SEBASTIANINI
For Japan:
M. HOTTA
TAKATSUGU YOSHIWARA
For Liechtenstein:
W. KRAFT
For Morocco:
HALGOUËT
For the United Mexican States:
G. LUDERS DE NEGRI
For Norway:
B. G. WYLLER
For the Netherlands:
J. ALINGH PRINS
J. VAN HETTINGA TROMP
A. D. KOELEMAN
H. F. VAN WALSEM
For Poland:
STEFAN CZAYKOWSKI
For Portugal:
JOÃO DE LEBRE E LIMA
ARTHUR DE MELLO QUINTELLA SALDANHA
For Sweden:
BIRGER LINDGREN
ÅKE DE ZWEIGBERGK
For Syria and the Lebanon:
MARCEL PLAISANT
For Switzerland:
W. KRAFT
For Czechoslovakia:
DR. KAREL SKÁLA
DR. OTTO PARSCH
For Tunis:
C. BILLECOCQ
For Turkey:
A. FETHI
For Yugoslavia:
DR. JANKO CHOUMANE (ŠUMAN)

AGREEMENT FOR THE REGULATION OF WHALING

Signed at London, June 8, 1937; in force May 7, 1938[1]

The Governments of the Union of South Africa, the United States of America, the Argentine Republic, the Commonwealth of Australia, Germany, the United Kingdom of Great Britain and Northern Ireland, the Irish Free State, New Zealand and Norway, desiring to secure the prosperity of the whaling industry and, for that purpose, to maintain the stock of whales, have agreed as follows:

[1] U. S. Treaty, Series No. 933. Ratified before going into force by the United States, Germany, United Kingdom of Great Britain and Northern Ireland, Eire, New Zealand, and Norway. Acceded to by Canada with effect from June 14, 1938, and by Mexico with effect from May 7, 1938.

ARTICLE 1

The contracting governments will take appropriate measures to ensure the application of the provisions of the present agreement and the punishment of infractions against the said provisions, and, in particular, will maintain at least one inspector of whaling on each factory ship under their jurisdiction. The inspectors shall be appointed and paid by governments.

ARTICLE 2

The present agreement applies to factory ships and whale catchers and to land stations as defined in Article 18 under the jurisdiction of the contracting governments, and to all waters in which whaling is prosecuted by such factory ships and/or whale catchers.

ARTICLE 3

Prosecutions for infractions against or contraventions of the present agreement and the regulations made thereunder shall be instituted by the government or a department of the government.

ARTICLE 4

It is forbidden to take or kill grey whales and/or right whales.

ARTICLE 5

It is forbidden to take or kill any blue, fin, humpback or sperm whales below the following lengths, viz.:

(*a*) Blue whales	70 feet
(*b*) Fin whales	55 feet
(*c*) Humpback whales	35 feet
(*d*) Sperm whales	35 feet

ARTICLE 6

It is forbidden to take or kill calves, or suckling whales or female whales which are accompanied by calves or suckling whales.

ARTICLE 7

It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in any waters south of 40° south latitude, except during the period from the 8th day of December to the 7th day of March following, both days inclusive, provided that in the whaling season 1937–38 the period shall extend to the 15th day of March, 1938, inclusive.

ARTICLE 8

It is forbidden to use a land station or a whale catcher attached thereto for the purpose of taking or treating whales in any area or in any waters for more than six months in any period of twelve months, such period of six months to be continuous.

ARTICLE 9

It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in any of the following areas, viz.:

(*a*) in the Atlantic Ocean north of 40° south latitude and in the Davis Strait, Baffin Bay and Greenland Sea;
(*b*) in the Pacific Ocean east of 150° west longitude between 40° south latitude and 35° north latitude;
(*c*) in the Pacific Ocean west of 150° west longitude between 40° south latitude and 20° north latitude;
(*d*) in the Indian Ocean north of 40° south latitude.

ARTICLE 10

Notwithstanding anything contained in this agreement, any contracting government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the contracting government thinks fit, and the killing, taking and treating of whales in accordance with the terms in force under this article shall be exempt from the operation of this agreement.

Any contracting government may at any time revoke a permit granted by it under this article.

ARTICLE 11

The fullest possible use shall be made of all whales taken. Except in the case of whales or parts of whales intended for human food or for feeding animals, the oil shall be extracted by boiling or otherwise from all blubber, meat (except the meat of sperm whales) and bones other than the internal organs, whale bone and flippers, of all whales delivered to the factory ship or land station.

ARTICLE 12

There shall not at any time be taken for delivery to any factory ship or land station a greater number of whales than can be treated efficiently and in accordance with Article 11 of the present agreement by the plant and personnel therein within a period of thirty-six hours from the time of the killing of each whale.

ARTICLE 13

Gunners and crews of factory ships, land stations and whale catchers shall be engaged on terms such that their remuneration shall depend to a considerable extent upon such factors as the species, size and yield of whales taken, and not merely upon the number of the whales taken, and no bonus or other remuneration, calculated by reference to the results of their work, shall be paid to the gunners and crews of whale catchers in respect of any whales the taking of which is forbidden by this agreement.

ARTICLE 14

With a view to the enforcement of the preceding article, each contracting government shall obtain, in respect of every whale catcher under its jurisdiction, an account showing the total emolument of each gunner and member of the crew and the manner in which the emolument of each of them is calculated.

ARTICLE 15

Articles 5, 9, 13 and 14 of the present agreement, in so far as they impose obligations not already in force, shall not until the 1st day of December, 1937, apply to factory ships, land stations or catchers attached thereto which are at present operating or which have already taken practical measures with a view to whaling operations during the period before the said date. In respect of such factory ships, land stations and whale catchers, the agreement shall in any event come into force on the said date.

ARTICLE 16

The contracting governments shall obtain with regard to all factory ships and land stations under their jurisdiction records of the number of whales of each species treated at each factory ship or land station and as to the aggregate amounts of oil of each grade and quantities of meal, guano and other products derived from them, together with particulars with respect to each whale treated in the factory ship or land station as to the date and place of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex, if ascertainable, of the foetus.

ARTICLE 17

The contracting governments shall, with regard to all whaling operations under their jurisdiction, communicate to the International Bureau for Whaling Statistics at Sandefjord in Norway the statistical information specified in Article 16 of the present agreement together with any information which may be collected or obtained by them in regard to the calving grounds and migration routes of whales.

In communicating this information the governments shall specify:

(*a*) The name and tonnage of each factory ship;
(*b*) the number and aggregate tonnage of the whale catchers;
(*c*) a list of the land stations which were in operation during the period concerned.

ARTICLE 18

In the present agreement the following expressions have the meanings respectively assigned to them, that is to say:

"factory ship" means a ship in which or on which whales are treated whether wholly or in part;
"whale catcher" means a ship used for the purpose of hunting, taking, towing, holding on to, or scouting for whales;

"land station" means a factory on the land, or in the territorial waters adjacent thereto, in which or at which whales are treated whether wholly or in part;

"baleen whale" means any whale other than a toothed whale;

"blue whale" means any whale known by the name of blue whale, Sibbald's rorqual or sulphur bottom;

"fin whale" means any whale known by the name of common finback, common finner, common rorqual, finback, fin whale, herring whale, razorback, or true fin whale;

"grey whale" means any whale known by the name of grey whale, California grey, devil fish, hard head, mussel digger, grey back, rip sack;

"humpback whale" means any whale known by the name of bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale;

"right whale" means any whale known by the name of Atlantic right whale, Arctic right whale, Biscayan right whale, bowhead, great polar whale, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, pigmy right whale, Southern pigmy right whale or Southern right whale;

"sperm whale" means any whale known by the name of sperm whale, spermacet whale, cachalot or pot whale;

"length" in relation to any whale means the distance measured on the level in a straight line between the tip of the upper jaw and the notch between the flukes of the tail.

ARTICLE 19

The present agreement shall be ratified and the instruments of ratification shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland as soon as possible. It shall come into force upon the deposit of instruments of ratification by a majority of the signatory governments, which shall include the Governments of the United Kingdom, Germany and Norway; and for any other government not included in such majority on the date of the deposit of its instrument of ratification.

The Government of the United Kingdom will inform the other governments of the date on which the agreement thus comes into force and the date of any ratification received subsequently

ARTICLE 20

The present agreement shall come into force provisionally on the 1st day of July, 1937, to the extent to which the signatory governments are respectively able to enforce it; provided that if any government within two months of the signature of the agreement informs the Government of the United Kingdom that it is unwilling to ratify it the provisional application of the agreement in respect of that government shall thereupon cease.

The Government of the United Kingdom will communicate the name of any government which has signified that it is unwilling to ratify the agreement to the other governments, any of whom may within one month of such

communication withdraw its ratification or accession or signify its unwillingness to ratify as the case may be, and the provisional application of the agreement in respect of that government shall thereupon cease. Any such withdrawal or communication shall be notified to the Government of the United Kingdom by whom it will be transmitted to the other governments.

ARTICLE 21

The present agreement shall, subject to the preceding article, remain in force until the 30th day of June, 1938, and thereafter if, before that date, a majority of the contracting governments, which shall include the Governments of the United Kingdom, Germany and Norway, shall have agreed to extend its duration. In the event of such extension it shall remain in force until the contracting governments agree to modify it, provided that any contracting government may, at any time after the 30th day of June, 1938, by giving notice on or before the 1st day of January in any year to the Government of the United Kingdom (who on receipt of such notice shall at once communicate it to the other contracting governments) withdraw from the agreement, so that it shall cease to be in force in respect of that government after the 30th day of June following, and that any other contracting government may, by giving notice in the like manner within one month of the receipt of such communication, withdraw also from the agreement, so that it shall cease to be in force respecting it after the same date.

ARTICLE 22

Any government which has not signed the present agreement may accede thereto at any time after it has come into force. Accession shall be effected by means of a notification in writing addressed to the Government of the United Kingdom and shall take effect immediately after the date of its receipt.

The Government of the United Kingdom will inform all the governments which have signed or acceded to the present agreement of all accessions received and the date of their receipt.

In faith whereof the undersigned, being duly authorized, have signed the present agreement.

Done in London the 8th day of June, 1937, in a single copy, which shall remain deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, by whom certified copies will be transmitted to all the other contracting governments.

For the Government of the Union of South Africa:
F. J. DU TOIT

For the Government of the United States of America:
HERSCHEL V. JOHNSON
REMINGTON KELLOGG

For the Government of the Argentine Republic:
MANUEL E. MALBRÁN

M. FINCATI
T. L. MARINI
For the Government of the Commonwealth of Australia:
S. M. BRUCE
For the Government of Germany:
WOHLTHAT
For the Government of the United Kingdom of Great Britain and Northern Ireland:
HENRY G. MAURICE
GEO. HOGARTH
For the Government of the Irish Free State:
SEAN O'FAOLAIN O'DULCHAOIGH
For the Government of New Zealand:
G. MCNAMARA
For the Government of Norway:
BIRGER BERGERSEN

FINAL ACT

The Conference, having this day signed an Agreement for the Regulation of Whaling, to take immediate effect, desires to add, for the consideration of the governments represented at the Conference, the following observations:

2. The agreement is valid for one year and will, it is hoped, continue in force for future years, unless the governments, or any of them, decide to the contrary. It is likely, in the opinion of the Conference, to go far towards maintaining the stock of whales, upon which the prosperity of the whaling industry depends.

3. Experience may prove, however, that further measures of conservation are necessary or desirable. The Conference desires, therefore, to suggest that certain further methods of conservation and of preventing wastage of whales should be examined by the governments concerned without delay, and that the governments should take the necessary measures by legislation to place themselves in a position to impose such further regulations of whaling as experience may dictate.

4. The agreement prescribes regulations mainly of general application to whaling from factory ships and land stations alike. The most important of these regulations are those requiring the observance of close seasons, prohibiting the taking of whales of certain species already threatened with extinction, prohibiting the taking of female whales with calves or suckling whales and of whales of different species below size limits prescribed for each species, requiring full commercial use to be made of every part of every whale taken, and limiting the time within which, from the time of catching, whales must be treated in a factory ship or land station as the case may be. The purpose of these regulations is to limit the number of whales killed and to prevent the waste of whale material.

5. Certain provisions of the agreement, however, affect only pelagic whaling, in particular those provisions which absolutely prohibit pelagic whaling for baleen whales in certain large areas of the sea. This differentiation between whaling prosecuted by means of factory ships and by means of land stations needs explanation. It has been urged that whaling as hitherto prosecuted from some land stations, especially near the equatorial zone, has been wasteful and harmful because the physiological condition of the whales taken was such that their oil yield was low and because whales were taken at these stations when they were about to throw their calves. Against this it may be argued that the raising of the size limits for various species under the agreement will greatly restrict the catch brought to the land stations, that the land stations, not enjoying the mobility of the factory ships, are already handicapped in the pursuit of whales, and that whatever catch they take is a comparatively insignificant fraction of the total catch. The Conference recommends that the catch of the land stations should be carefully studied and that the governments should consider, in the light of such study, what further regulations, if any, should be attached to whaling from land stations, either generally or in particular geographical areas. In the view of the Conference, there is a certain risk that the restrictions imposed on pelagic whaling may lead to a development of whaling from land stations, and the governments should accordingly place themselves in a position to check or regulate such development should it occur.

6. The Conference further recommends that the governments should put themselves in a position to limit, if it is thought fit, the number of whale catchers that may be employed in connection with any factory ship or land station with a view to further limitation of the destruction of whales.

7. The governments are also recommended to take powers, if they do not already possess them, to prohibit whaling entirely in any area of the sea either permanently or for a limited period. It is felt that it may be desirable, in the light of experience gained, to close permanently areas which may be proved to be calving areas, or to close from year to year selected areas of the Antarctic Ocean or elsewhere for the purpose of giving to the whales a sanctuary in which they may escape molestation.

8. The Conference also recommends that the governments should place themselves in a position to regulate the methods of killing whales. Under existing methods of whaling, whales may be fatally injured, but lost owing to defects in the guns or harpoons in use, including the propelling and bursting charges. This involves waste of whales. It is suggested that it may prove desirable so to regulate the methods of taking whales as to ensure that, by the use of suitable explosive charges, or by the use of a harpoon electrically charged, the whale when hit may be speedily killed and wastage thus avoided. Moreover, a regulation of this character may be expected to abate something of the undoubted cruelty of present methods of whaling.

9. The Conference further recommends that the contracting governments

should take steps to prevent this agreement and any regulations made thereunder from being defeated by the transfer of ships registered in their territories to the flag of another government not a party to this agreement, and suggests that for this purpose it might be provided that the transfer of a factory ship or whale catcher from its national flag to the flag of any other country should be permitted only under license of the government.

10. The Conference believes that the regulations upon which it has agreed will certainly contribute to the maintenance of the stock of whales and to the prosperity of the whaling industry. Not all the representatives of governments present at the Conference have been able to sign the agreement, some of them not being authorized by their governments in that behalf. It is hoped that all governments represented will eventually accede to the agreement. The Conference desires to urge upon the contracting governments that they should use their utmost endeavors to secure the adhesion of such Powers as are interested in the whaling industry but were not represented at the present Conference. The Conference recognizes that the purpose of the present agreement may be defeated by the development of unregulated whaling by other countries, in which case it would be a matter for consideration whether the present agreement should be continued in force, or whether the contracting governments should not agree to modify their regulations to meet the situation thus created, or even to permit their nationals to pursue whaling without regulation, so that they may derive from its pursuit such benefit as may be had before the stock of whales has been reduced to a level at which whaling ceases to be remunerative. For the Conference is convinced that, unless whaling is now strictly regulated, that eventuality cannot be regarded as remote.

11. In conclusion, the Conference desires to urge that a further conference should be held at a convenient time next year, at which the results of the forthcoming season may be studied and the question of the modification or extension of the present agreement be considered.

Done in London, the 8th day of June 1937, in a single copy, which shall remain deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, by whom certified copies will be transmitted to the other governments which have signed the Agreement for the Regulation of Whaling.

[Here follow the same signatures as to the preceding agreement, pp. 111–112.]

PROTOCOL ON REGULATION OF WHALING

Signed at London, June 24, 1938; in force December 30, 1938 [1]

The Governments of the Union of South Africa, the United States of America, the Argentine Republic, the Commonwealth of Australia, Canada, Eire, Germany, the United Kingdom of Great Britain and Northern Ireland, New Zealand and Norway, desiring to introduce certain amendments into the International Agreement for the Regulation of Whaling, signed in London on the 8th June, 1937 (hereinafter referred to as the Principal Agreement) in accordance with the provisions of Article 21 thereof, have agreed as follows:

ARTICLE 1

With reference to the provisions of Articles 5 and 7 of the Principal Agreement, it is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating humpback whales in any waters south of 40° south latitude during the period from the 1st October, 1938, to the 30th September, 1939.

ARTICLE 2

Notwithstanding the provisions of Article 7 of the Principal Agreement, it is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in the waters south of 40° south latitude from 70° west longitude westwards as far as 160° west longitude for a period of two years from the 8th day of December, 1938.

ARTICLE 3

(1) No factory ship which has been used for the purpose of treating baleen whales south of 40° south latitude shall be used for that purpose elsewhere within a period of twelve months from the end of the open season prescribed in Article 7 of the Principal Agreement.

(2) Only such factory ships as have operated during the year 1937 within the territorial waters of any signatory government shall, after the signature of this protocol, so operate, and any such ships so operating shall be treated as land stations and remain moored in territorial waters in one position during the season and shall operate for not more than six months in any period of twelve months such period of six months to be continuous.

ARTICLE 4

To Article 5 of the Principal Agreement there shall be added the following:

> "except that blue whales of not less than 65 feet, fin whales of not less than 50 feet and sperm whales of not less than 30 feet in length may be taken for delivery to land stations provided that the meat of such whales is to be used for local consumption as human or animal food."

[1] U. S. Treaty, Series No. 544. Ratified before date of going into force by United Kingdom of Great Britain and Northern Ireland, Germany, and Norway; by the United States March 30, 1939.

ARTICLE 5

To Article 7 of the Principal Agreement there shall be added the following:

"Notwithstanding the above prohibition of treatment during a close season, the treatment of whales which have been taken during the open season may be completed after the end of the open season."

ARTICLE 6

In Article 8 of the Principal Agreement the word "baleen" shall be inserted after the word "treating."

ARTICLE 7

For the areas specified in (*a*), (*b*), (*c*) and (*d*) of Article 9 of the Principal Agreement there shall be substituted the following areas, viz.:

(*a*) in the waters north of 66° north latitude; except that from 150° east longitude eastwards as far as 140° west longitude the taking or killing of whales by such ship or catcher shall be permitted between 66° north latitude and 72° north latitude;
(*b*) in the Atlantic Ocean and its dependent waters north of 40° south latitude;
(*c*) in the Pacific Ocean and its dependent waters east of 150° west longitude between 40° south latitude and 35° north latitude;
(*d*) in the Pacific Ocean and its dependent waters west of 150° west longitude between 40° south latitude and 20° north latitude;
(*e*) in the Indian Ocean and its dependent waters north of 40° south latitude.

ARTICLE 8

For Article 12 of the Principal Agreement there shall be substituted the following, viz.: The taking of whales for delivery to a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcase shall remain in the sea for a longer period than 33 hours from the time of killing to the time when it is taken up on to the deck of the factory ship for treatment.

ARTICLE 9

The present protocol shall come into force provisionally on the first day of July, 1938, to the extent to which the signatory governments are respectively able to enforce it.

ARTICLE 10

(i) The present protocol shall be ratified and the instruments of ratification shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland as soon as possible.

(ii) It shall come into force definitively upon the deposit of the instruments of ratification by the Governments of the United Kingdom, Germany and Norway.

(iii) For any other government which is a party to the Principal Agreement, the present protocol shall come into force on the date of the deposit of its instrument of ratification or notification of accession.

(iv) The Government of the United Kingdom will inform the other governments of the date on which the protocol comes into force and the date of any ratification or accession received subsequently.

ARTICLE 11

(i) The present protocol shall be open to accession by any government which has not signed it and which accedes to the Principal Agreement before the definitive entry into force of the protocol.

(ii) Accession shall be effected by means of a notification in writing addressed to the Government of the United Kingdom and shall take effect immediately after the date of its receipt.

(iii) The Government of the United Kingdom will inform all the governments which have signed or acceded to the present protocol of all accessions received and the date of their receipt.

ARTICLE 12

Any ratification of or accession to the Principal Agreement which may be deposited or notified after the date of definitive coming into force of the present protocol shall be deemed to relate to the Principal Agreement as amended by the present protocol.

In witness whereof the undersigned, duly authorized thereto, have signed the present protocol.

Done in London the twenty-fourth day of June, 1938, in a single copy, which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, by whom certified copies shall be communicated to all the signatory governments.

For the Government of the Union of South Africa:
C. T. TE WATER
F. J. DU TOIT

For the Government of the United States of America:
HERSCHEL V. JOHNSON
REMINGTON KELLOGG
WILFRID N. DERBY

For the Government of the Argentine Republic:
MANUEL E. MALBRÁN
M. FINCATI

For the Government of the Commonwealth of Australia:
ROBERT G. MENZIES

For the Government of Canada:
VINCENT MASSEY

For the Government of Eire:
SEAN O'FAOLAIN O'DULCHAONTIGH
J. D. RUSH

For the Government of Germany:
HELMUTH WOHLTAT

For the Government of the United Kingdom of Great Britain and Northern Ireland:
HENRY G. MAURICE
GEO. HOGARTH
For the Government of New Zealand:
W. J. JORDAN
For the Government of Norway:
BIRGER BERGERSEN

[SEAL OF BRITISH FOREIGN OFFICE]

CERTIFICATE OF EXTENSION OF AGREEMENT FOR THE REGULATION OF WHALING SIGNED JUNE 8, 1937

Whereas the International Agreement for the Regulation of Whaling, signed in London on the 8th June, 1937 has been ratified by the Governments of the United States of America, Germany, the United Kingdom of Great Britain and Northern Ireland, Eire, New Zealand and Norway, and came into force in accordance with the provisions of Article 19 on the 7th day of May, 1938; and

Whereas the Governments of the United States of Mexico and Canada have acceded, with effect from the 7th May, 1938 and the 14th June, 1938, respectively, to the said agreement in accordance with Article 22 thereof; and

Whereas in consequence the Governments of the United States of America, Germany, the United Kingdom of Great Britain and Northern Ireland, Eire, New Zealand, Norway, the United States of Mexico and Canada are contracting governments; and

Whereas, according to the provisions of Article 21, the said agreement remains in force until the 30th June, 1938 and thereafter if, before that date, a majority of the contracting governments, which shall include the Governments of the United Kingdom, Germany and Norway shall have agreed to extend its duration:

The undersigned, Principal Secretary of State for Foreign Affairs of His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, hereby certifies that, the Governments of the United States of America, Canada, Germany, the United Kingdom of Great Britain and Northern Ireland, Eire, the United States of Mexico, New Zealand and Norway have agreed to extend the duration of the said agreement, and that the agreement will accordingly, under the provisions of Article 21, continue in force after the 30th June, 1938.

Witness my hand this 29th day of June, 1938.

Given at the Foreign Office, London.

HALIFAX

FINAL ACT

INTERNATIONAL WHALING CONFERENCE, LONDON—JUNE, 1938

1. In accordance with the recommendation contained in paragraph 11 of the Final Act, signed in London on the 8th June, 1937, a further Conference met in London on the 14th June, 1938, and subsequent days to consider modifications or extensions of the existing agreement, hereinafter referred to as the Principal Agreement.

2. The following governments sent delegates to the Conference: Union of South Africa, United States of America, Argentina, Australia, Canada, Denmark, Eire, France Germany, United Kingdom of Great Britain and Northern Ireland, Japan New Zealand and Norway. An observer also attended on behalf of the Portuguese Government, and the interests of Newfoundland were watched by the United Kingdom Delegation.

3. The Principal Agreement has been ratified by the Governments of Eire, Germany, Norway, United Kingdom of Great Britain and Northern Ireland and United States of America, whilst Canada and Mexico have since acceded to it. With regard to the remaining signatory governments, New Zealand has actually ratified the Principal Agreement.

The Argentine Republic is enforcing the Principal Agreement by executive decree, and formal ratification is only a matter of time. The Conference understands that ratification of the Principal Agreement by the Governments of the Commonwealth of Australia and of the Union of South Africa has been delayed only by constitutional difficulties. The Conference is confident that these governments will take steps at the earliest possible moment to remove these difficulties and to ratify. The Government of Denmark has notified its intention of acceding to the Principal Agreement and the Protocol as soon as the necessary powers to enforce their provisions have been obtained by legislation. The Government of France is prepared to accede to the Principal Agreement subject to certain reservations affecting land stations, which are dealt with later in this act. Towards the end of the proceedings of the Conference the Japanese Delegation informed the Conference that their government was prepared to take the necessary legislative and other measures to enable them to accede to the Principal Agreement and the Protocol after an interval of a year subject to a reservation in respect of the first paragraph of Article 3 of the Protocol. The Japanese Government is also prepared to observe the principles of the present agreement as nearly as possible in the meantime. There is no information at present available as to the attitude of Portugal and the Government of Newfoundland has reserved its decision.

4. The necessary majority required by Article 21 of the Principal Agreement for the extension of its duration after the 30th June, 1938, has been secured.

5. The Conference took note of the fact that, according to the statistics

of the catch of the last Antarctic season, the opinion expressed in paragraph 2 of the Final Act of the Conference of 1937, that the Principal Agreement was likely to go far in maintaining the stock of whales, had not been justified by the event, inasmuch as the actual number of whales killed (approximately 44,000) and the number of barrels of oil produced (approximately 3,250,000) were, respectively, some 10,000 and 600,000 in excess of the corresponding figures for the previous season.

6. The Conference had also before it a resolution of the Whaling Committee of the International Council for the Exploration of the Sea, which met in Copenhagen on the 23rd May, 1938, in the following terms:

> "The Committee, viewing with alarm the evident decline of the stock of blue whales, is of opinion that nothing less than a limitation of the total amount of whale oil which may be taken in any whaling season can be effective in preserving the stock of blue whales from being reduced to the level at which it can no longer be the object of economic exploitation."

This resolution was adopted by the Council at its concluding meeting on the 28th May, 1938, with a request that it should be brought to the notice of the members of the present Conference.

7. In the light of the facts set forth in paragraph 5 above, and the terms of the above resolution of the Whaling Committee of the International Council for the Exploration of the Sea the Conference considered the following measures of general application which might be expected to limit the destruction of whales:

(*a*) a further reduction of the open season;
(*b*) a limitation of the number of catchers which might be used in connection with each expedition;
(*c*) an overhead limitation of output during the Antarctic whaling season, by which is meant that a limit of output should be fixed, after which all whaling should cease, though the limit might be reached before the end of the open season;
(*d*) the fixing of a maximum oil production which no expedition should exceed in any one Antarctic season;
(*e*) special measures of protection for humpback whales;
(*f*) the establishment of a sanctuary in waters south of 40° south latitude;
(*g*) the closure of additional areas against pelagic whaling.

8. With regard to method (*a*) in the foregoing paragraph, the Conference agreed, with the exception of the Japanese Delegation, who reserved their position for the season 1938–39, that the open season provided for in Article 7 of the Principal Agreement, that is to say, from the 8th day of December to the 7th day of March following, should be maintained. It was felt that few, if any, expeditions would be able to engage profitably in whaling if the open season in the Antarctic were further curtailed; and that a further curtailment of the open season would increase the temptation to evade the

provisions of Articles 11 and 12 of the Principal Agreement, which are designed to secure that the fullest possible use shall be made of all whales taken.

9. With regard to method (*b*), a proposal was put forward that the number of whale catchers attached to any expedition should be limited to seven, but the Conference was unable to reach agreement either upon this proposal or upon any limitation in the number of whale catchers.

10. Although method (*c*) was advocated by the Whaling Committee of the International Council for the Exploration of the Sea as the most effective restriction of undue exploitation of the whale stock, the Conference did not feel able at the present time to recommend its adoption.

11. The Conference could not agree on the application of method (*d*). In particular, objection was taken to this method on the ground that its incidence would be unfair, in that it would limit the operations of the most efficient factory ships and have little, if any, effect upon the operations of the smaller and less efficient factory ships. The question whether different maxima might be fixed for different expeditions according to their capacity was raised, but it was clear that agreement would not be reached on this basis.

12. Although the Conference was unable to agree to the immediate adoption of methods (*b*), (*c*) or (*d*), there was a strong feeling that these were matters calling for further expert examination by all the governments concerned, with a view to their consideration at a subsequent Conference.

13. With regard to method (*e*), attention was drawn to a report recently issued by the Discovery Committee concerning the condition of the stock of humpback whales and to other evidence pointing to a serious decline of that stock, and the Conference appointed a committee to study this question. The committee reported that there was ample biological evidence to show that the humpback stock was in very serious danger in all sectors of the southern hemisphere, and recommended that there should be no hunting of this species of whale for at least a year in any waters, or at least in the southern hemisphere and North Atlantic and dependent waters. It proved impossible to obtain the general agreement of the Conference to this proposal, chiefly because some land stations depend mainly upon humpbacks for their output of oil, and it was contended that the total prohibition, even for one year, of the hunting of humpbacks would have an effect on these land stations disproportionate to that which it would have on pelagic expeditions. The Conference, therefore, while admitting the desirability of a total prohibition, agreed that, in the first instance, the hunting of humpbacks by means of pelagic expeditions should be prohibited in the waters south of 40° south latitude. A provision to this effect has consequently been embodied in the Protocol (Article 1). It is hoped that this measure of protection, coupled with the immunity which all baleen whales would enjoy in the greater part of the waters north of 40° south latitude, should have useful results, and the Conference strongly recommends the governments represented thereat

and other governments concerned to study this question further with a view to give complete protection to humpback whales for a suitable period after the 30th September, 1939.

14. With regard to method (*f*), the Conference agreed that the sector of the waters south of 40° south latitude which lies between 70° west longitude and 160° west longitude should be a sanctuary for whales for at least two years, and provision has been made accordingly in the Protocol (Article 2). In this sector commercial whaling has not hitherto been prosecuted, but the evidence acquired by the Discovery Committee shows that it is frequented by baleen whales, and the Conference agreed that it was highly desirable that the immunity which whales in this area had hitherto enjoyed should be maintained. Little information is available as to the extent to which whales from this area travel into the adjoining areas, or *vice versa*, but there is reason to think that such movement does to some extent, take place, and that therefore the protection provided in this area may have useful results.

15. With regard to method (*g*), certain doubts having arisen already as to the limits of the Greenland Sea referred to in Article 9 of the Principal Agreement and as to the extent to which the Arctic Ocean is included within the area protected by that article, it was suggested that the whole of the waters north of 66° north latitude should be brought under protection, and that to the Atlantic and Indian Oceans and to the closed areas of the Pacific Ocean should be added their respective dependent waters. The Japanese Delegation, however, asked for a concession permitting whaling in the Arctic Ocean north of the Pacific Ocean, between 66° north latitude and 72° north latitude. In view of the satisfactory declaration as to the position of the Japanese Government referred to in paragraph 3, the Conference agreed to exclude these waters from the restriction. Provision to meet these points has accordingly been made in the Protocol (Article 7).

16. In the fifth paragraph of the Final Act of the Conference of last year attention was drawn to the risk that the restrictions imposed on pelagic whaling might lead to a development of whaling from land stations, and the governments were accordingly advised to place themselves in a position to check or regulate such development should it occur. Since the conference of last year an unforeseen development has occurred owing to the assumption in certain quarters that, in spite of the provisions of Article 9 of the Principal Agreement, it was legitimate to use a factory ship as a temporary "land station" when it remained within the territorial waters of a state. In the opinion of the Conference as a whole (United States of America Delegation dissenting), the wording of Article 9 of the Principal Agreement prohibits the use of a factory ship for treating whales in the whole of the areas specified, without exception. Briefly, the majority view of the Conference is that a factory ship does not lose its character of being a ship until at least it loses its power of independent movement, and that a factory ship moored in territorial waters is no less a ship than any other ship which drops its

anchor or is moored in a port. Although the Conference has no doubt of the correctness of this interpretation of Article 9, it has been thought desirable, in view of the events which have occurred, to embody in the Protocol an article (Article 3) which, while placing beyond doubt the fact that it is not permissible to use a factory ship as a "land station," nevertheless makes a concession in respect of existing enterprises.

17. The French Delegation declared that the French Government was ready to accede to the present agreement subject to the following reservations:

> First, that the term "land station" employed in the Principal Agreement means a factory on land or a factory placed near the coast on a construction fixed or anchored at the same spot during the whole of the hunting season, and one which cannot be subsequently employed as a factory ship fishing in the deep sea.
>
> Secondly, should any regulations be introduced regulating the number of land stations as thus defined, France reserves the right to establish or to maintain three of such stations in her possessions in the southern hemisphere.

In view of the provisions of Article 3 of the Protocol, coupled with the statement in paragraph 16 of this Final Act, the first reservation of the French Government appears to be satisfied. Furthermore, there is no provision in the Protocol regulating the number of land stations. The way, therefore, is clear for the accession of the Government of the French Republic.

18. It was represented to the Conference by the Danish Delegation that in the Faroe Islands whale hunting was prosecuted mainly to provide food in the form of whale meat for the population of the islands, and that hitherto whaling had been conducted from two land stations in the Faroe Islands without regard to size limits. They intimated that it would be necessary for them, in order to accede to the Principal Agreement, which Denmark was otherwise ready to accept, to make a reservation in respect of size limits so far as they affected these stations. To meet this particular case and other cases of a similar character, the Conference agreed to attach a proviso to Article 5 of the Principal Agreement. The Protocol (Article 4) provides that the size limit for blue, fin and sperm whales applicable to whales taken by catchers working from land stations may be reduced by 5 feet in each instance provided that the meat of such whales is to be used for local consumption. It is understood that this provision is to be limited in its application to stations which are genuinely intended to supply the local needs of the country in which the station is situated.

19. It was agreed that Article 7 of the Principal Agreement should be amended so as to allow of the treatment of whales after the end of the open season provided that they were killed before midnight on the 7th March. Provision has been made accordingly in the Protocol (Article 5).

20. The Conference considered a statement by the Japanese Delegation

with regard to the effect of Article 8 of the Principal Agreement upon land stations in Japan, some of which actually operate for more than six months in any one year, a considerable portion of the catch consisting of sperm whales. In order to meet so far as possible the case of such land stations, the Conference agreed to confine the application of Article 8 to baleen whales, and an amendment to this effect has been included in the Protocol (Article 6).

21. The Conference having considered reports to the effect that some difficulty has been experienced in the application of Article 12 of the Principal Agreement, the purpose of which is to limit the period between the killing and the treatment of a whale, it was agreed to remove the uncertainty as to the exact interpretation of the article by redrafting it on different lines with the same purpose in view. Provision has been made accordingly in the Protocol (Article 8).

22. The Conference learned with concern that during the Antarctic whaling season of 1936–37, and the summer of 1937, no less than 15 right whales had been killed. They were informed that some of these whales had been measured, and among them four fœtuses were found, the lengths of which were approximately 20 feet, 18 feet, 17 feet and 1 foot respectively. Some of these whales were taken by nationals of governments which were signatories to the Principal Agreemen The Conference desires to draw the attention of the governments concerned to these breaches of the Geneva Convention and the Principal Agreement. From the commercial point of view, little advantage can accrue to any expedition by the taking of the few right whales that still exist, and, in the opinion of the Conference, it is deplorable not only that right whales should be killed in spite of the provisions of the Principal Agreement, but that in particular, as the statistics prove, breeding right whales should have been killed. The Conference, therefore, expresses the hope that, with a view to the preservation of the remainder of these most interesting mammals, the governments concerned should sternly enforce the provisions of Article 4 of the Principal Agreement.

23. The Conference took note of a statement by Dr. Mackintosh of the proposals of the Discovery Committee for enlisting the support of whaling enterprises in the continuation and development of whale marking as carried out by the committee. The Conference also heard a statement from the German Delegation as to the steps which the German Government proposes to take for the marking of whales. The Conference expressed the hope that the governments and the whaling enterprises concerned will do their best to encourage the development of whale marking, which, in the view of the Conference, is likely to make an important contribution to the knowledge of the movement of whales, which has a very close bearing upon the problem of conservation of whales.

24. With reference to paragraph 9 of the Final Act of the Conference of 1937, it was reported that the Governments of Germany and Norway had acquired the necessary powers to deal with transfers of ships registered in

their territories, and that the Government of the United States of America already possessed those powers. The Conference expressed the hope that other countries would take steps to acquire similar powers at an early date.

25. In conclusion, the Conference suggested that the question of holding a future conference should be left to the consideration of the governments concerned, in the light of developments.

Done in London the 24th day of June, 1938, in a single copy, which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, by whom certified copies shall be communicated to all the signatory governments.

For the Government of the Union of South Africa:
C. T. TE WATER
F. J. DU TOIT

For the Government of the United States of America:
HERSCHEL V. JOHNSON
REMINGTON KELLOGG
WILFRID N. DERBY

For the Government of the Argentine Republic:
MANUEL E. MALBRÁN
M. FINCATI

For the Government of the Commonwealth of Australia:
ROBERT G. MENZIES

For the Government of Canada:
VINCENT MASSEY

For the Government of Denmark:
P. F. ERICSEN

For the Government of Eire:
SEAN O'FAOLAIN O'DULCHAONTIGH
J. D. RUSH

For the Government of Germany:
HELMUTH WOHLTAT

For the Government of the United Kingdom of Great Britain and Northern Ireland:
HENRY G. MAURICE
GEO. HOGARTH

For the Government of Japan:
A. KODAKI

For the Government of New Zealand:
W. J. JORDAN

For the Government of Norway:
BIRGER BERGERSEN

FINLAND–UNION OF SOVIET SOCIALIST REPUBLICS

TREATY OF PEACE [1]

Signed at Moscow March 12, 1940; ratifications exchanged, March 21, 1940

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics on the one hand and the President of the Finnish Republic on the other hand, motivated by the desire to cease the military operations which have arisen between the two countries and to create enduring peaceful mutual relations, and being convinced that the interests of the two contracting parties correspond to the determination of the exact conditions for guaranteeing mutual security including the guarantee of the security of the cities of Leningrad and Murmansk as well as the Murmansk railway, have deemed it necessary to conclude a peace treaty for these purposes and have appointed as their plenipotentiary representatives—

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics:

Vyacheslav Mikhailovich Molotov, President of the Soviet of People's Commissars of the Union of Soviet Socialist Republics and People's Commissar for Foreign Affairs;

Andrei Aleksandrovich Zhdanov, member of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics;

Aleksandr Mikhailovich Vasilevski, Brigade Commander;

The President of the Finnish Republic:

Risto Ryti, the Prime Minister of the Cabinet of the Finnish Republic;

Yukho * Kusti * Paasikivi, Minister;

Karl Rudolf Valden,* General;

Vyaine * Voionmaa, Professor.

The said plenipotentiary representatives, after reciprocal presentation of their plenipotentiary documents which were acknowledged to have been drawn up in the appropriate form and in complete order, have agreed with regard to the following:

ARTICLE 1

Military operations between the Union of Soviet Socialist Republics and Finland shall cease immediately in accordance with the procedure provided in the protocol attached to the present treaty.

[1] Department of State Bulletin, April 27, 1940, Vol. II, No. 44, p. 453. The following note is reprinted from the Bulletin: "The text was transmitted to the Department by the American Embassy at Moscow as translated from the Russian text published in *The Pravda* of March 13, 1940."

* Transliterated from the Russian.

ARTICLE 2

The national boundary between the Union of Soviet Socialist Republics and the Finnish Republic shall be established along a new line in accordance with which the entire Karelian isthmus with the city of Viborg (Viipuri) and Viborg bay with its islands; the western and northern shores of Lake Ladoga with the cities of Kexholm, Sortavala, and Suojärvi; a number of islands in the Gulf of Finland; territory to the east of Merkjärvi with the city of Kuolajärvi; and part of the Rybachi and Sredny peninsulas—in accordance with the map attached to the present treaty—shall be included within the territory of the Union of Soviet Socialist Republics.

A more detailed delineation of the boundary line shall be established by a mixed commission of representatives of the contracting parties, and such a commission must be appointed within ten days from the date of signature of the present treaty.

ARTICLE 3

The two contracting parties undertake to refrain mutually from any attack upon each other, and not to conclude any alliance or participate in coalitions directed against one of the contracting parties.

ARTICLE 4

The Finnish Republic agrees to rent to the Soviet Union for a period of thirty years, with the annual payment of eight million Finmarks by the Soviet Union, Hango peninsula and its surrounding waters within a radius of five miles to the south and east and of three miles to the west and north of the peninsula, as well as a number of islands adjacent to the peninsula—in accordance with the attached map—for the establishment of a naval base there capable of defending the entrance to the Gulf of Finland from aggression, and the Soviet Union shall be granted the right to maintain the requisite number of land and air armed forces there at its own expense for the purpose of defending the naval base.

Within ten days from the moment that the present treaty shall enter into effect, the Finnish Government shall withdraw all of its troops from Hango peninsula, and Hango peninsula with the adjacent islands shall be transferred to the administration of the Union of Soviet Socialist Republics, in accordance with the present article of the treaty.

ARTICLE 5

The Union of Soviet Socialist Republics undertakes to withdraw its troops from Petsamo province, which the Soviet state voluntarily ceded to Finland according to the Peace Treaty of 1920.

Finland undertakes—as was provided in the Treaty of 1920—not to maintain warships and other armed ships in the waters along the Finnish coast of the Arctic Ocean, with the exception of armed ships of less than one hundred tons displacement, of which Finland shall have the right to maintain

an unlimited number, as well as to maintain not more than fifteen warships and other armed ships the tonnage of which may not exceed four hundred tons each.

Finland undertakes—as was provided by the same treaty—not to maintain submarines and armed aircraft in the said waters.

Likewise Finland undertakes—as was provided by the same treaty—not to construct naval ports, bases for a naval fleet or naval repair shops on this coast on a larger scale than is required for the above-mentioned ships and their armaments.

ARTICLE 6

The Soviet Union and its citizens—as was provided by the Treaty of 1920—shall be granted the right of unrestricted transit through Petsamo province to Norway and return, and the Soviet Union shall be granted the right to establish a consulate in Petsamo province.

Freight, which is transported through Petsamo province from the Union of Soviet Socialist Republics to Norway, as well as freight which is transported from Norway to the Union of Soviet Socialist Republics through the same province, shall not be subject to inspection and control, with the exception of that control which is necessary for regulation of transit communication, and shall be exempt from customs duties, transit, and other fees.

The above-mentioned control of freight in transit shall be permitted only in the manner observed in such cases by the established practices of international communication.

Citizens of the Union of Soviet Socialist Republics traveling to Norway or returning from Norway to the Union of Soviet Socialist Republics through Petsamo province, shall have the right of unrestricted travel on the basis of passports issued by the appropriate Soviet organs.

Upon observation of the general regulations in effect, Soviet unarmed aircraft shall have the right to aërial communication between the Union of Soviet Socialist Republics and Norway across Petsamo province.

ARTICLE 7

The Finnish Government shall grant to the Soviet Union the right of transit for freight between the Union of Soviet Socialist Republics and Sweden, and for the purpose of the development of this transit along the shortest railway route the Union of Soviet Socialist Republics and Finland consider it necessary for each party to construct, if possible during 1940, on its own territory a railway uniting the city of Kandalakska with the city of Kemijarvi.

ARTICLE 8

Upon the entry of the present treaty into force, trade relations between the contracting parties shall be restored and for this purpose the contracting parties shall enter into negotiations for conclusion of a trade agreement.

ARTICLE 9

The present peace treaty shall enter into effect immediately upon its signature and shall be subject to subsequent ratification.

The exchange of instruments of ratification shall take place within ten days in the city of Moscow.

The present treaty is drawn up in two originals, each of which are in the Russian, Finnish, and Swedish languages, in the city of Moscow on March 12, 1940.

V. Molotov
A. Zhdanov
A. Vasilevski
Risto * Ryti
Yu. Paasikivi *
R. Valden *
Vyaine * Voionmaa

PROTOCOL TO THE PEACE TREATY OF MARCH 12, 1940 [1]

The contracting parties shall establish the following order of cessation of military operations and of removal of troops across the state boundary established by the treaty:

1. Both sides shall cease military operations at 12 o'clock, Leningrad time, on March 13, 1940.

2. Beginning at the time fixed for the cessation of military operations a neutral zone one kilometre wide whall be established between the positions of the advance detachments, and under this arrangement a military unit of one side which is on the territory of the other side, according to the new state boundary, shall be removed to the distance of one kilometre during the course of the first day.

3. The removal of troops across the new state boundary and the advance of troops of the other side up to the boundary shall begin at 10 o'clock on March 15, 1940, along the entire length of the boundary from the Finnish gulf to Lieksa and at 10 o'clock on March 16 north of Lieksa. The removal shall be effected by daily marches of not less than seven kilometres in twenty-four hours, and the advance of troops of the other side shall proceed on the basis of a reckoning whereby there shall be a space of not less than seven kilometres between the rear units of the retreating troops and the advance units of the troops of the other side, moving up to the new boundary.

4. The terms of removal on separate sectors of the state boundary shall be established, in accordance with paragraph 3, as follows:

a) in the sector from the sources of the river Tuntsajoki to Kuolajärvi, to Takala,* and to the eastern shore of Lake Juokomojärvi, the removal of troops of both sides shall be completed by 20 o'clock on March 20, 1940;

* Transliterated from the Russian.

[1] See footnote 1, p. 127.

b) in the sector to the south of Kuhmonieni in the region of Latva * the removal of troops shall be completed by 20 o'clock on March 22, 1940;

c) in the sector from Lopgavaara * to Värtsilä to the station Matkaselkä, the removal of troops of both sides shall be completed by 20 o'clock on March 26, 1940;

d) in the sector from the station Matkaselkä to Koitsanlahti, the removal of troops shall be completed by 20 o'clock on March 22, 1940;

e) in the sector from Koitsanlahti to the station Enso, the removal of troops shall be completed by 20 o'clock on March 25, 1940;

f) in the sector from the station Enso to the island Bate * the removal of troops shall be completed by 20 o'clock on March 19, 1940.

5. The evacuation of the troops of the Red Army from the region of Petsamo shall be completed by April 10, 1940.

6. In the removal of troops across the state frontier, the military authorities of both sides shall be obliged to take the necessary measures in the towns and localities transferred to the other side for their preservation, and to take suitable measures to ensure that the towns, villages, military and economic structures (bridges, dams, airdromes, arsenals, warehouses, railroad junctions, manufacturing enterprises, telegraph, electric stations) shall be safeguarded against damage and destruction.

7. All questions which may arise from the transfer from one side to the other of regions, points, towns, and other objects indicated in point six of the present protocol, shall be decided by representatives of both sides on the spot, for which purpose special delegates shall be designated by the military authorities on each basic line of movement of both armies.

8. The exchange of military prisoners shall be conducted in as short a time as possible after the cessation of military operations, on the basis of a special agreement.

V. Molotov
A. Zhdanov
A. Vasilevski
Risto * Ryti
Yu. Paasikivi *
R. Valden *
Vyaine * Voionmaa

GREAT BRITAIN-UNITED STATES

AGREEMENT FOR THE EXCHANGE OF COTTON AND RUBBER [1]

Signed at London, June 23, 1939; ratifications exchanged August 25, 1939.

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, desiring to

* Transliterated from the Russian.

[1] U. S. Treaty Series, No. 947.

make arrangements for the exchange of cotton and rubber, have agreed as follows—

ARTICLE 1

The United States Government will supply to the Government of the United Kingdom, delivered on board ship, compressed to high density, at New Orleans, Louisiana, and at other Gulf and Atlantic deep water ports to be agreed upon between the two Governments, 600,000 bales of raw cotton of the grades and staples which will be specified by the Government of the United Kingdom. The United States Government will make available in adequate quantities for such purpose cotton from the stock on which the United States Government has made advances to growers.

(*a*) The price will be fixed on the basis of the average market price as published by the Bureau of Agricultural Economics for middling 7/8-inch cotton during the period January 1st–June 23rd, 1939, for spot delivery at New Orleans, plus 0.54 cent per lb. for cost of compression and delivery on board ship, with adjustments in price for other grades and staples according to differences above or below middling 7/8-inch quoted in that period.

(*b*) The cotton will be inspected to determine its classification in accordance with the Universal Cotton Standards for grade and the official standards of the United States for staple, and shall be accepted, by experts appointed by the Government of the United Kingdom. Any disputes which may arise will be settled by Boards of Referees constituted of three members of whom one shall be nominated by the Government of the United Kingdom.

(*c*) Samples representing the cotton of the grades and staples specified by the Government of the United Kingdom will be made available for inspection and acceptance during a period of six months beginning 15 days after the entry into force of this agreement, and such inspection and acceptance will be made within a reasonable time after the cotton is so made available. Delivery at the warehouse at the port of sailing with provision for free delivery on board ship at high density will be made within 15 days after inspection and acceptance, and storage and insurance charges will be borne by the United States Government for a period of two weeks but no more after delivery at the warehouse at the port of sailing.

(*d*) All cotton will be invoiced and accepted on gross weights at the time of delivery.

ARTICLE 2

The Government of the United Kingdom will supply to the Government of the United States, delivered on board ship at Singapore and, by agreement between the two Governments, at other convenient ports, rubber in bales, of the grades which will be specified by the Government of the United States, to a value equivalent to that of the total value of the cotton to be supplied in accordance with Article 1 of this agreement. In determining such equivalent value, the rate of exchange between Straits Settlements dollars and United States dollars shall be deemed to be the average of the

buying rate during the period January 1st–June 23rd, 1939, in the New York market, at noon, for cable transfers payable in Straits Settlements dollars, as certified by the Federal Reserve Bank to the Secretary of the United States Treasury and published in Treasury Decisions.

(*a*) The quantity of rubber will be calculated upon the average market price, as published by the Department of Statistics in the Straits Settlements, for No. 1 ribbed smoked sheets, during the period January 1st–June 23rd, 1939, for spot delivery at Singapore plus 0.25 Straits Settlements cent per lb. for cost of baling and delivery on board ship, with adjustments in price for other grades according to differences quoted in that period.

(*b*) The rubber will be inspected and accepted by experts appointed by the United States Government. Any disputes will be settled in accordance with the normal custom of the trade.

(*c*) The rubber will be made available for inspection and acceptance by experts appointed by the Government of the United States during a period of six months beginning at a date to be agreed upon by the two Governments, and such inspection and acceptance will be made within a reasonable time after the rubber is so made available. Delivery at the warehouse at the port of shipment with provision for free delivery on board ship will be made within a period of 15 days after inspection and acceptance, and storage and insurance charges will be borne by the Government of the United Kingdom for a period of two weeks but no more after delivery at the warehouse at the port of shipment.

ARTICLE 3

If either Government should find that delivery in accordance with the arrangements specified in Articles 1 and 2 is likely to restrict supplies available to commercial markets unduly or to stimulate undue price increases, the two Governments shall consult with a view to postponing delivery or taking other action in order to avoid or minimize such restriction of supplies or such price increases.

ARTICLE 4

The intention of the United States Government and of the Government of the United Kingdom being to acquire the reserves of cotton and rubber, respectively, against the contingency of a major war emergency, each Government undertakes not to dispose of its stock (otherwise than for the purpose of replacing such stocks by equivalent quantities in so far as may be expedient for preventing deterioration) except in the event of such an emergency. If, however, either Government should at any future date decide that the time has come to liquidate its stock of cotton or rubber, as the case may be, it may do so only after (*a*) consulting the other Government as to the means to be employed for the disposal of such stock, and (*b*) taking all steps to avoid disturbance of the markets. In no case may either government dispose of such stocks, except in the case of a major war

emergency, before a date seven years after the coming into force of this agreement.

ARTICLE 5

The Government of the United Kingdom will use their best endeavors to secure that the export is permitted under the International Rubber Regulation Scheme of an amount of rubber approximately equivalent to the amount of rubber to be supplied to the United States Government under this agreement in addition to the amount of rubber which would, under the normal operation of the scheme, be released to meet current consumption needs.

ARTICLE 6

Each Government undertakes, in shipping to its own ports the stocks of cotton and rubber, respectively, provided for in this agreement, so far as may be possible to distribute the tonnage equally between the ships of the two countries, provided that the shipping space required is obtainable at reasonable rates. Consultation for the purpose of giving effect to this article shall be between the Board of Trade and the Maritime Commission.

ARTICLE 7

Should the United States Government, before the delivery is completed of the cotton provided for in Article 1 of this agreement, take any action which has the effect of an export subsidy, they will deliver to the Government of the United Kingdom an additional quantity of cotton proportionate to the reduction in price below that provided for in Article 1 of this agreement caused by such action.

ARTICLE 8

The present agreement shall come into force on a date to be agreed upon between the two Governments.[2]

In witness whereof the undersigned, duly authorized thereto, have signed the present agreement and have affixed thereto their seals.

Done in London in duplicate this 23rd day of June, 1939.

[SEAL] JOSEPH P. KENNEDY
[SEAL] OLIVER F. G. STANLEY

[2] Agreement put into force in August 25, 1939, by an exchange of notes at London on that day.

INTER-AMERICAN NEUTRALITY COMMITTEE [1]

RECOMMENDATION ON INVIOLABILITY OF POSTAL CORRESPONDENCE

SUBMITTED TO THE GOVERNMENTS OF THE AMERICAN REPUBLICS THROUGH THE PAN AMERICAN UNION

[Translation by the Pan American Union]

Rio de Janeiro, May 31, 1940

CONSIDERING:

1. That since the outbreak of the present European war, various cases have occurred in which postal correspondence proceeding from American States has been intercepted and examined by the belligerents, even on board neutral ships and in neutral waters or on the high seas;

2. That the principle of the inviolability of postal correspondence is a fundamental legal concept, designed to protect, along with the recognition of the other rights of man, the full development of individual activities within the State and in the relations of the international community;

3. That Article 1 of Convention No. XI of The Hague of 1907 relative to certain restrictions with regard to the exercise of the right of capture in naval war, recognized the principle of the inviolability of postal correspondence found on the high seas by a belligerent on board a neutral or enemy ship; and this recognition was made necessary in order to give the greatest possible scope to the right of immunity and privacy of postal communications, even in time of war, and in view of the grave injuries resulting from the examination of correspondence, which injuries are unjustly disproportionate to the military advantages derived from the seizure of any contraband found in this correspondence;

4. That without entering into an examination of the status of Convention XI of The Hague of 1907, it expresses beyond doubt the moral and juridical consensus of the international community in regard to the laws of war, in view of the fact that it was formulated by virtually all the States of the world and was ratified by many of them;

5. That the principle of inviolability, by its nature and object, may be completely applied only to the protection of epistolary correspondence, properly so called, and may not be extended to protect the transmission of goods or things of value ordinarily sent by postal means; and for this reason Article 1 of Convention No. XI of The Hague should be interpreted in the sense that the term "postal correspondence," which it employs, does not include packages or parcel-post, small packets, nor articles of declared value, which, although utilizing postal facilities, are not correspondence in its true meaning and are not considered, in domestic legislation, exempt from in-

[1] For previous recommendations of this committee, see this JOURNAL, Supp., April, 1940, p. 75.

spection and examination for taxation or administrative purposes, because they constitute a traffic in goods which may give rise to evasions and violations;

6. That, on the other hand, experience subsequent to the adoption of the said Convention of 1907 has demonstrated that the principal obstacle to the observance by belligerents of the principle of inviolability arises from the fact that neutrals do not draw a distinction between epistolary correspondence and other postal communications which, intermingled with the former, are transported by mail, and that from the confusion which this intermingling produces, there results as a consequence that the belligerent, in exercising the right of search for and seizure of contraband, does not confine himself to packages, parcel-post and articles of declared value, but extends it to the seizure and examination of all mails, improperly including correspondence to which the principle of inviolability applies;

7. That in order to avoid that the making of this distinction may be left in practice to the sole judgment of the belligerents and to facilitate the exemption of epistolary correspondence from seizure, examination and delay, it is desirable that the neutral States from which the mail proceeds adopt, with due respect for the principle of inviolability and in accordance with their respective legislations and postal practices, measures which will establish a convenient separation of epistolary correspondence, properly so denominated, with prohibitions relative to the inclusion in that correspondence of goods and things of value which should be sent separately, apart from correspondence properly so called; maximum limits of weight for each item of correspondence properly so called, and arrangements for the identification of pouches in which the latter is transported;

8. That after this distinction has been made between epistolary correspondence and other postal communications, the former should be completely protected by the principle of inviolability and be exempt from seizure, confiscation and examination; and although the possibility might be conceived that this correspondence could be used improperly to carry objects or matters which the belligerents hold to be contraband of war, such a possibility cannot justify a claim for the examination of this correspondence, for if such a claim were admitted, the principle of inviolability of postal correspondence would forthwith lose all application and there would be no limitation whatsoever upon the right of search and seizure, which was precisely what Convention XI of The Hague attempted to circumscribe within reasonable confines;

9. That the detention or examination of correspondence of any kind for the purpose of preventing the communication of information of a political or military character, or of any other nature, if not admissible, because there does not exist, as in the case of contraband, any such right of detention on the part of the belligerents; and any such claim lacks a basis in international

law and should be rejected as being contrary to the principle of inviolability, because the admission of such a claim would imply the examination even of epistolary correspondence, which has never been considered subject to censorship by the belligerents;

10. That the inviolability enjoyed by neutral postal correspondence on the high seas cannot disappear merely because the ship which transports it is forced into a port of contraband control; on the contrary, that inviolability subsists and should be respected as if the ship were on the high seas;

11. That the neutral States do not claim inviolability for correspondence destined to or proceeding from a blockaded port when there has been a violation of the blockade by the ship which carries the correspondence;

12. That the matters referred to in this preamble and in the conclusion of this resolution, may be divided and classified as follows:

(a) Reaffirmation of the general principle of the inviolability of postal correspondence;

(b) Distinction between epistolary correspondence and other types of mail;

(c) Postal service between an American State and a belligerent State or territory occupied by the latter (special mail pouch);

(d) Postal service between neutral American States and neutral non-American States (prohibition of the inclusion in the mail pouches of this service of objects destined to belligerent States or territories occupied by the latter);

(e) Postal service between neutral American States (inviolability of mail pouches of all kinds);

For all these reasons,

THE INTER-AMERICAN NEUTRALITY COMMITTEE,

Resolves

I

To reaffirm the following principles of Convention No. XI of The Hague, which declare that:

> The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.
>
> The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

II

To recommend to the American States, without impairing the foregoing principles and for the purpose of adopting a practical means of identifying the nature and destination of epistolary correspondence which is inviolable, exempting it effectively from seizure and violation, the adoption in their respective postal administrations of the following measures, with the express understanding that none of the proposed measures shall be applicable to mails of any kind whatsoever exchanged between neutral American States, which mails shall continue to enjoy absolute inviolability:

(a) That the postal administrations (departments) of the American States organize, on the basis of absolute respect for the principle of inviolability and without prejudice to other existing postal services, a special postal service of epistolary correspondence destined to belligerent countries or occupied by them, which services shall carry only letters, business papers or postal cards, and shall not include any of the objects enumerated in paragraph 4 of Article 34 of the Universal Postal Convention of Cairo of 1934, namely: bank-notes, paper money or any values payable to the bearer; manufactured or unmanufactured platinum, gold or silver; precious stones, jewelry, or other precious articles, merchandise of any kind, no matter how insignificant the value.

(b) The mail pouches of this service shall contain only individual items of correspondence, up to three postal units and postal cards, to which should be affixed on the reverse side by the postal clerk a control seal with the words "*correspondance épistolaire*" and with the letters *C. E.* clearly visible.

Postal administrations of origin which consider it desirable may require that the letters which are to be included in the mail pouches containing epistolary correspondence shall be submitted to the formality of registration.

The labels identifying the mail pouches containing epistolary correspondence shall carry on the front, in a clearly visible manner, the words "*correspondance épistolaire*" with individual numbering in annual serial form.

The mail pouches containing epistolary correspondence may be prepared in the same mail bags which are at present used for the transportation of correspondence, but should carry, in addition to the usual white or red label, a supplementary pink label, of 6 x 10 cm., with the legible words "*correspondance épistolaire.*"

(c) American mails shall not include in the future, in pouches containing correspondence destined to neutral non-American States, any object whatsoever addressed to localities in territories of belligerent States or occupied by them. Postal deliveries to such territories should be made by the American postal administration of origin or of transit in pouches addressed direct to the mail services situated therein.

III

To recommend, likewise, that American postal administrations undertake strict supervision of mails, by means of regulations which will not interfere

with inviolability, to prevent the carrying in mail pouches destined to belligerent countries or to countries occupied by belligerents of articles the export of which is prohibited by the neutrality laws of the country of origin, and that appropriate penalties be applied with severity against violators.

(S) AFRANIO DE MELLO FRANCO
(S) L. A. PODESTÁ COSTA
(S) CHARLES G. FENWICK
(S) MARIANO FONTECILLA
(S) SALVADOR MARTÍNEZ MERCADO
(S) MANUEL FRANCISCO JIMENEZ
(S) GUSTAVO HERRERA

PANAMA-UNITED STATES

GENERAL TREATY OF FRIENDSHIP AND COÖPERATION [1]

Signed at Washington, March 2, 1936; ratifications exchanged July 27, 1939

The United States of America and the Republic of Panama, animated by the desire to strengthen further the bonds of friendship and coöperation between the two countries and to regulate on a stable and mutually satisfactory basis certain questions which have arisen as a result of the construction of the interoceanic canal across the Isthmus of Panama, have decided to conclude a treaty, and have designated for this purpose as their plenipotentiaries:

The President of the United States of America:

Mr. Cordell Hull, Secretary of State of the United States of America, and Mr. Sumner Welles, Assistant Secretary of State of the United States of America; and

The President of the Republic of Panama:

The Honorable Doctor Ricardo J. Alfaro, Envoy Extraordinary and Minister Plenipotentiary of Panama to the United States of America, and The Honorable Doctor Narciso Garay, Envoy Extraordinary and Minister Plenipotentiary of Panama on special mission;

Who, having communicated their respective full powers to each other, which have been found to be in good and due form, have agreed upon the following:

ARTICLE I

Article I of the Convention of November 18, 1903, is hereby superseded.

There shall be a perfect, firm and inviolable peace and sincere friendship between the United States of America and the Republic of Panama and between their citizens.

In view of the official and formal opening of the Panama Canal on July 12, 1920, the United States of America and the Republic of Panama declare that the provisions of the Convention of November 18, 1903, contemplate the use, occupation and control by the United States of America of the Canal

[1] U. S. Treaty Series, No. 945.

Zone and of the additional lands and waters under the jurisdiction of the United States of America for the purposes of the efficient maintenance, operation, sanitation and protection of the Canal and of its auxiliary works.

The United States of America will continue the maintenance of the Panama Canal for the encouragement and use of interoceanic commerce, and the two Governments declare their willingness to coöperate, as far as it is feasible for them to do so, for the purpose of insuring the full and perpetual enjoyment of the benefits of all kinds which the Canal should afford the two nations that made possible its construction as well as all nations interested in world trade.

ARTICLE II

The United States of America declares that the Republic of Panama has loyally and satisfactorily complied with the obligations which it entered into under Article II of the Convention of November 18, 1903, by which it granted in perpetuity to the United States the use, occupation and control of the zone of land and land under water as described in the said article, of the islands within the limits of said zone, of the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco, and of any other lands and waters outside of said zone necessary and convenient for the construction, maintenance, operation, sanitation and protection of the Panama Canal or of any auxiliary canals or other works, and in recognition thereof the United States of America hereby renounces the grant made to it in perpetuity by the Republic of Panama of the use, occupation and control of lands and waters, in addition to those now under the jurisdiction of the United States of America outside of the zone as described in Article II of the aforesaid convention, which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the Panama Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

While both Governments agree that the requirement of further lands and waters for the enlargement of the existing facilities of the Canal appears to be improbable, they nevertheless recognize, subject to the provisions of Articles I and X of this treaty, their joint obligation to insure the effective and continuous operation of the Canal and the preservation of its neutrality, and consequently, if, in the event of some now unforeseen contingency, the utilization of lands or waters additional to those already employed should be in fact necessary for the maintenance sanitation or efficient operation of the Canal, or for its effective protection, the Governments of the United States of America and the Republic of Panama will agree upon such measures as it may be necessary to take in order to insure the maintenance, sanitation, efficient operation and effective protection of the Canal, in which the two countries are jointly and vitally interested.

ARTICLE III

In order to enable the Republic of Panama to take advantage of the commercial opportunities inherent in its geographical situation, the United States of America agrees as follows:

1) The sale to individuals of goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America shall be limited by it to the persons included in classes (a) and (b) of Section 2 of this article; and with regard to the persons included in classes (c), (d) and (e) of the said section and members of their families, the sales above mentioned shall be made only when such persons actually reside in the Canal Zone.

2) No person who is not comprised within the following classes shall be entitled to reside within the Canal Zone:

(a) Officers, employees, workmen or laborers in the service or employ of the United States of America, the Panama Canal or the Panama Railroad Company, and members of their families actually residing with them;

(b) Members of the armed forces of the United States of America and members of their families actually residing with them;

(c) Contractors operating in the Canal Zone and their employees, workmen and laborers during the performance of contracts;

(d) Officers, employees or workmen of companies entitled under Section 5 of this article to conduct operations in the Canal Zone;

(e) Persons engaged in religious, welfare, charitable, educational, recreational and scientific work exclusively in the Canal Zone;

(f) Domestic servants of all the beforementioned persons and members of the families of the persons in classes (c), (d) and (e) actually residing with them.

3) No dwellings belonging to the Government of the United States of America or to the Panama Railroad Company and situated within the Canal Zone shall be rented, leased or sublet except to persons within classes (a) to (e), inclusive of Section 2 hereinabove.

4) The Government of the United States of America will continue to coöperate in all proper ways with the Government of the Republic of Panama to prevent violations of the immigration and customs laws of the Republic of Panama, including the smuggling into territory under the jurisdiction of the Republic of goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America.

5) With the exception of concerns having a direct relation to the operation, maintenance, sanitation or protection of the Canal, such as those engaged in the operation of cables, shipping, or dealing in oil or fuel, the Government of the United States of America will not permit the establishment in the Canal Zone of private business enterprises other than those existing therein at the time of the signature of this treaty.

6) In view of the proximity of the port of Balboa to the city of Panamá

and of the port of Cristobal to the city of Colón, the United States of America will continue to permit, under suitable regulations and upon the payment of proper charges, vessels entering at or clearing from the ports of the Canal Zone to use and enjoy the dockage and other facilities of the said ports for the purpose of loading and unloading cargoes and receiving or disembarking passengers to or from the territory under the jurisdiction of the Republic of Panama.

The Republic of Panama will permit vessels entering at or clearing from the ports of Panamá or Colón, in case of emergency and also under suitable regulations and upon the payment of proper charges, to use and enjoy the dockage and other facilities of said ports for the purpose of receiving or disembarking passengers to or from the territory of the Republic of Panama under the jurisdiction of the United States of America, and of loading and unloading cargoes either in transit or destined for the service of the Canal or of works pertaining to the Canal.

7) The Government of the United States of America will extend to private merchants residing in the Republic of Panama full opportunity for making sales to vessels arriving at terminal ports of the Canal or transiting the Canal, subject always to appropriate administrative regulations of the Canal Zone.

ARTICLE IV

The Government of the Republic of Panama shall not impose import duties or taxes of any kind on goods destined for or consigned to the agencies of the Government of the United States of America in the Republic of Panama when the goods are intended for the official use of such agencies, or upon goods destined for or consigned to persons included in classes (a) and (b) in Section 2 of Article III of this treaty, who reside or sojourn in territory under the jurisdiction of the Republic of Panama during the performance of their service with the United States of America, the Panama Canal or the Panama Railroad Company, when the goods are intended for their own use and benefit.

The United States of America shall not impose import duties or taxes of any kind on goods, wares and merchandise passing from territory under the jurisdiction of the Republic of Panama into the Canal Zone.

No charges of any kind shall be imposed by the authorities of the United States of America upon persons residing in territory under the jurisdiction of the Republic of Panama passing from the said territory into the Canal Zone, and no charges of any kind shall be imposed by the authorities of the Republic of Panama upon persons in the service of the United States of America or residing in the Canal Zone passing from the Canal Zone into territory under the jurisdiction of the Republic of Panama, all other persons passing from the Canal Zone into territory under the jurisdiction of the Republic of Panama being subject to the full effects of the immigration laws of the Republic.

In view of the fact that the Canal Zone divides the territory under the jurisdiction of the Republic of Panama, the United States of America agrees that, subject to such police regulations as circumstances may require, Panamanian citizens who may occasionally be deported from the Canal Zone shall be assured transit through the said Zone, in order to pass from one part to another of the territory under the jurisdiction of the Republic of Panama.

ARTICLE V

Article IX of the Convention of November 18, 1903, is hereby superseded.

The Republic of Panama has the right to impose upon merchandise destined to be introduced for use or consumption in territory under the jurisdiction of the Republic of Panama, and upon vessels touching at Panamanian ports and upon the officers, crew or passengers of such vessels, the taxes or charges provided by the laws of the Republic of Panama; it being understood that the Republic of Panama will continue directly and exclusively to exercise its jurisdiction over the ports of Panamá and Colón and to operate exclusively with Panamanian personnel such facilities as are or may be established therein by the Republic or by its authority. However, the Republic of Panama shall not impose or collect any charges or taxes upon any vessel using or passing through the Canal which does not touch at a port under Panamanian jurisdiction or upon the officers, crew or passengers of such vessels, unless they enter the Republic; it being also understood that taxes and charges imposed by the Republic of Panama upon vessels using or passing through the Canal which touch at ports under Panamanian jurisdiction, or upon their cargo, officers, crew or passengers, shall not be higher than those imposed upon vessels which touch only at ports under Panamanian jurisdiction and do not transit the Canal, or upon their cargo, officers, crew or passengers.

The Republic of Panama also has the right to determine what persons or classes of persons arriving at ports of the Canal Zone shall be admitted to the Republic of Panama and to determine likewise what persons or classes of persons arriving at such ports shall be excluded from admission to the Republic of Panama.

The United States of America will furnish to the Republic of Panama free of charge the necessary sites for the establishment of customhouses in the ports of the Canal Zone for the collection of duties on importations destined to the Republic and for the examination of merchandise, baggage and passengers consigned to or bound for the Republic of Panama, and for the prevention of contraband trade, it being understood that the collection of duties and the examination of merchandise and passengers by the agents of the Government of the Republic of Panama, in accordance with this provision, shall take place only in the customhouses to be established by the Government of the Republic of Panama as herein provided, and that the Republic of Panama will exercise exclusive jurisdiction within the sites on which the customhouses are located so far as concerns the enforcement of immigration

or customs laws of the Republic of Panama, and over all property therein contained and the personnel therein employed.

To further the effective enforcement of the rights hereinbefore recognized, the Government of the United States of America agrees that, for the purpose of obtaining information useful in determining whether persons arriving at ports of the Canal Zone and destined to points within the jurisdiction of the Republic of Panama should be admitted or excluded from admission into the Republic, the immigration officers of the Republic of Panama shall have the right of free access to vessels upon their arrival at the Balboa or Cristobal piers or wharves with passengers destined for the Republic; and that the appropriate authorities of the Panama Canal will adopt such administrative regulations regarding persons entering ports of the Canal Zone and destined to points within the jurisdiction of the Republic of Panama as will facilitate the exercise by the authorities of Panama of their jurisdiction in the manner provided in Paragraph 4 of this article for the purposes stated in Paragraph 3 thereof.

ARTICLE VI

The first sentence of Article VII of the Convention of November 18, 1903, is hereby amended so as to omit the following phrase: "or by the exercise of the right of eminent domain."

The third paragraph of Article VII of the Convention of November 18, 1903, is hereby abrogated.

ARTICLE VII

Beginning with the annuity payable in 1934 the payments under Article XIV of the Convention of November 18 1903, between the United States of America and the Republic of Panama shall be four hundred and thirty thousand balboas (B/430,000.00) as defined by the agreement embodied in an exchange of notes of this date. The United States of America may discharge its obligation with respect to any such payment, upon payment in any coin or currency, provided the amount so paid is the equivalent of four hundred and thirty thousand balboas (B/430,000.00) as so defined.

ARTICLE VIII

In order that the city of Colón may enjoy direct means of land communication under Panamanian jurisdiction with other territory under jurisdiction of the Republic of Panama, the United States of America hereby transfers to the Republic of Panama jurisdiction over a corridor, the exact limits of which shall be agreed upon and demarcated by the two Governments pursuant to the following description:

(a) The end at Colón connects with the southern end of the east half of the Paseo del Centenario at Sixteenth Street Colón; thence the corridor proceeds in a general southerly direction, parallel to and east of Bolivar Highway to

the vicinity of the northern edge of Silver City; thence eastward near the shore line of Folks River, around the northeast corner of Silver City; thence in a general southeasterly direction and generally parallel to the Randolph Road to a crossing of said Randolph Road, about 1,200 feet east of the East Diversion; thence in a general northeasterly direction to the eastern boundary line of the Canal Zone near the southeastern corner of the Fort Randolph Reservation, southwest of Cativá. The approximate route of the corridor is shown on the map which accompanies this treaty, signed by the plenipotentiaries of the two countries and marked "Exhibit A."

(b) The width of the corridor shall be as follows: 25 feet in width from the Colón end to a point east of the southern line of Silver City; thence 100 feet in width to Randolph Road, except that, at any elevated crossing which may be built over Randolph Road and the railroad, the corridor will be no wider than is necessary to include the viaduct and will not include any part of Randolph Road proper, or of the railroad right of way, and except that, in case of a grade crossing over Randolph Road and the railroad, the corridor will be interrupted by that highway and railroad; thence 200 feet in width to the boundary line of the Canal Zone.

The Government of the United States of America will extinguish any private titles existing or which may exist in and to the land included in the above-described corridor.

The stream and drainage crossings of any highway built in the corridor shall not restrict the water passage to less than the capacity of the existing streams and drainage.

No other construction will take place within the corridor than that relating to the construction of a highway and to the installation of electric power, telephone and telegraph lines; and the only activities which will be conducted within the said corridor will be those pertaining to the construction, maintenance and common uses of a highway and of power and communication lines.

The United States of America shall enjoy at all times the right of unimpeded transit across the said corridor at any point, and of travel along the corridor, subject to such traffic regulations as may be established by the Government of the Republic of Panama; and the Government of the United States of America shall have the right to such use of the corridor as would be involved in the construction of connecting or intersecting highways or railroads, overhead and underground power, telephone, telegraph and pipe lines, and additional drainage channels, on condition that these structures and their use shall not interfere with the purpose of the corridor as provided hereinabove.

ARTICLE IX

In order that direct means of land communication, together with accommodation for the high tension power transmission lines, may be provided

under jurisdiction of the United States of America from the Madden Dam to the Canal Zone, the Republic of Panama hereby transfers to the United States of America jurisdiction over a corridor, the limits of which shall be demarcated by the two Governments pursuant to the following descriptions:

A strip of land 200 ft. in width, extending 62.5 ft. from the center line of the Madden Road on its eastern boundary and 137.5 ft. from the center line of the Madden Road on its western boundary, containing an area of 105.8 acres or 42.81 hectares, as shown on the map which accompanies this treaty, signed by the plenipotentiaries of the two countries and marked "Exhibit B."

Beginning at the intersection of the located center line of the Madden Road and the Canal Zone-Republic of Panama 5-mile boundary line, said point being located N. 29° 20′ W. a distance of 168.04 ft. along said boundary line from boundary monument No. 65 the geodetic position of boundary monument No. 65 being latitude N. 9° 07′ plus 3,948.8 ft. and longitude 79° 37′ plus 1,174.6 ft.;

thence N. 43° 10′ E. a distance of 541.1 ft. to station 324 plus 06.65 ft.;

thence on a 3° curve to the left, a distance of 347.2 ft. to station 327 plus 53.9 ft.;

thence N. 32° 45′ E. a distance of 653.8 ft. to station 334 plus 10.7 ft.;

thence on a 3° curve to the left a distance of 455.55 ft. to station 338 plus 66.25 ft.;

thence N. 19° 05′ E. a distance of 1,135.70 ft. to station 350 plus 01.95 ft.;

thence on an 8° curve to the left a distance of 650.7 ft. to station 356 plus 52.7 ft.;

thence N. 32° 58′ W. a distance of 636.0 ft. to station 362 plus 88.7 ft.;

thence on a 10° curve to the right a distance of 227.3 ft. to station 365 plus 16.0 ft.;

thence N. 10° 14′ W. a distance of 314.5 ft. to station 368 plus 30.5 ft.;

thence on a 5° curve to the left a distance of 178.7 ft. to station 370 plus 09.2 ft.;

thence N. 19° 10′ W. a distance of 4,250.1 ft. to station 412 plus 59.3 ft.;

thence on a 5° curve to the right a distance of 720.7 ft. to station 419 plus 80.0 ft.;

thence N. 16° 52′ E. a distance of 1,654.3 ft. to station 436 plus 44.3 ft.;

thence on a 5° curve to the left a distance of 597.7 ft. to station 442 plus 42.0 ft.;

thence N. 13° 01′ W. a distance of 563.8 ft. to station 447 plus 85.8 ft.;

thence on a 5° curve to the right a distance of 770.7 ft. to station 455 plus 56.5 ft.;

thence N. 25° 31′ E. a distance of 1,492.2 ft. to station 470 plus 48.7 ft.;

thence on a 5° curve to the right a distance of 808.0 ft. to station 478 plus 56.7 ft.;

thence N. 65° 55′ E. a distance of 284.8 ft. to station 481 plus 38.5 ft.;

thence on an 8° curve to the left a distance of 446.4 ft. to station 485 plus 84.9 ft.;

thence N. 30° 12′ E. a distance of 479.6 ft. to station 490 plus 64.5 ft.;

thence on a 5° curve to the left a distance of 329.4 ft. to station 493 plus 93.9 ft.;

thence N. 13° 54′ E. a distance of 1,639.9 ft. to station 510 plus 33.8 ft.;

thence on a 5° curve to the left a distance of 832.3 ft. to station 518 plus 66.1 ft.;

thence N. 27° 53′ W. a distance of 483.9 ft. to station 523 plus 50.0 ft.;

thence on an 8° curve to the right a distance of 469.6 ft. to station 528 plus 19.6 ft.;

thence N. 9° 41′ E. a distance of 1,697.6 ft. to station 545 plus 17.2 ft.;

thence on a 10° curve to the left a distance of 451.7 ft. to station 549 plus 68.9 ft., which is the point marked Point Z on the above-mentioned map known as "Exhibit B."

(All bearings are true bearings.)

The Government of the Republic of Panama will extinguish any private titles existing or which may exist in and to the land included in the above-described corridor.

The stream and drainage crossings of any highway built in the corridor shall not restrict the water passage to less than the capacity of the existing streams and drainage.

No other construction will take place within the corrider than that relating to the construction of a highway and to the installation of electric power, telephone and telegraph lines; and the only activities which will be conducted within the said corridor will be those pertaining to the construction, maintenance and common uses of a highway, and of power and communication lines, and auxiliary works thereof.

The Republic of Panama shall enjoy at all times the right of unimpeded transit across the said corridor at any point, and of travel along the corridor, subject to such traffic regulations as may be established by the authorities of the Panama Canal; and the Government of the Republic of Panama shall have the right to such use of the corridor as would be involved in the construction of connecting or intersecting highways or railroads, overhead and underground power, telephone, telegraph and pipe lines, and additional drainage channels, on condition that these structures and their use shall not interfere with the purpose of the corridor as provided hereinabove.

ARTICLE X

In case of an international conflagration or the existence of any threat of aggression which would endanger the security of the Republic of Panama or the neutrality or security of the Panama Canal, the Governments of the United States of America and the Republic of Panama will take such measures of prevention and defense as they may consider necessary for the protec-

tion of their common interests. Any measures, in safeguarding such interests, which it shall appear essential to one Government to take, and which may affect the territory under the jurisdiction of the other Government, will be the subject of consultation between the two Governments.

ARTICLE XI

The provisions of this treaty shall not affect the rights and obligations of either of the two high contracting parties under the treaties now in force between the two countries, nor be considered as a limitation, definition, restriction or restrictive interpretation of such rights and obligations, but without prejudice to the full force and effect of any provisions of this treaty which constitute addition to, modification or abrogation of, or substitution for the provisions of previous treaties.

ARTICLE XII

The present treaty shall be ratified in accordance with the constitutional methods of the high contracting parties and shall take effect immediately on the exchange of ratifications which shall take place at Washington.

In witness whereof, the plenipotentiaries have signed this treaty in duplicate, in the English and Spanish languages, both texts being authentic, and have hereunto affixed their seals.

Done at the city of Washington the second day of March, 1936.

CORDELL HULL [SEAL]
SUMNER WELLES [SEAL]
R. J. ALFARO [SEAL]
NARCISO GARAY [SEAL]

EXCHANGES OF NOTES BETWEEN R. J. ALFARO AND NARCISO GARAY, MEMBERS OF THE PANAMANIAN TREATY COMMISSION, ON THE ONE HAND, AND CORDELL HULL, SECRETARY OF STATE OF THE UNITED STATES, ON THE OTHER [2]

Washington, D. C., March 2, 1936

[Meaning of Canal Zone]

In connection with the treaty signed today and the exchange of notes accessory thereto we have the honor to confirm the understanding we have reached during the negotiations that wherever the provisions of the said treaty and the statements contained in the accessory notes refer to the Canal Zone, such provisions and statements are applicable to all such lands and waters as may be used, occupied or controlled by the United States of America.

[2] U. S. Treaty Series, No. 945.

[Interpretation of term "Officers, employees," etc.]

With reference to Section 1 of Article III of the treaty signed today, wherein are specified the classes of persons to whom goods imported into the Canal Zone, or purchased, produced or manufactured therein, may be sold by the Government of the United States of America, I have the honor to confirm the understanding reached in the course of the recent negotiations, namely, that for the purposes of said Section 1 of Article III, the term "Officers, employees, workmen or laborers in the service or employ of the United States of America" as it appears in Section 2 (a) of said Article III, is interpreted as referring exclusively to such persons whose services are related to the Panama Canal, the Panama Railroad Company or their auxiliary works, and to duly accredited representatives of any branch of the Government of the United States of America exercising official duties within the Republic of Panama, including diplomatic and consular officers, and to members of their staffs.

[Residence of settlers, gardeners, hucksters, etc.]

In connection with that part of Article III of the treaty signed today in which the persons are specified who are entitled to reside within the Canal Zone, we have the honor to state in the name of our Government that in view of the residence in the Canal Zone of the officers, employees and laborers of the United States of America, members of the forces of the Army and Navy, and members of the families of all those persons, our Government would have no objection to the residence therein of the following persons also: settlers engaged in the cultivation of truck gardens to furnish vegetables to the residents of the Canal Zone; hucksters engaged in the sale of such vegetables; proprietors of small establishments for the supply of such settlers and hucksters, and members of the families of all these persons.

It is also understood that the settlers engaged in the cultivation of small tracts under agricultural licenses issued by the Panama Canal will continue to reside in the Canal Zone, subject to the conditions, as stated by the representatives of the Government of the United States of America during the negotiations in regard to the settlers, to wit: that at present about 1,568 agricultural licenses in the Canal Zone are outstanding; that all of these licenses except a few, such as those for Chinese gardens, are being terminated by natural processes, that is, as the licensees abandon the ground, die, or fail to live up to the terms of the licenses; that it is the policy of the Panama Canal not to permit the license to be transferred to dependents when the licensee dies, except only in exceptional cases where real hardship would otherwise result; and that it is also the policy of the Panama Canal to issue no new licenses, except an inconsequential number regarded as necessary to the Canal Zone, such as for Chinese gardens.

[Hotel guests]

In connection with the part of Article III of the treaty signed today, in which the persons are specified who have a right to reside in the Canal Zone, we have the honor to state in the name of our Government that the restrictions established in the matter of residence in no wise affect the guests of hotels which the Panama Canal or the Panama Railroad Company maintains and manages for account of the Government of the United States of America in the Canal Zone, as such guests in entering such hotels do not go to the Zone as residents but as transients and the object of their stay in the Canal Zone for an indeterminate period is not to establish a permanent domicile there.

It is also understood that the restrictions do not apply to persons who wish to establish a permanent residence in any hotel in the Canal Zone either, provided such persons are among the number of those who have a right to reside in the Zone, in accordance with Section 2 of Article III of the treaty to which we have referred.

We wish to express our great pleasure at the statement made by the representatives of the Government of the United States of America during the negotiation of the treaty, that it is not the intention or desire of the Government of the United States of America to compete with Panamanian industry. We are also pleased to know with respect to the hotels in the Canal Zone that they were established for the purpose of meeting the necessities of the passenger traffic at a time when the hotels established in Panama were not entirely in position to do so; that as soon as this situation is satisfactorily altered the hotel business proper will be left in the hands of the industry established in Panama, and that the prosperity of the Republic of Panama in this, as in other respects, is earnestly desired by the United States of America.

[Servants

With reference to Section 1 of Article III of the treaty signed today whereby servants of the persons included in classes (a) to (e) inclusive of Section 2 are excluded from purchasing goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America, we have the honor to express the understanding of the Government of the Republic of Panama that such exclusion does not prevent the persons specified in the aforesaid Section 1 of Article III from purchasing provisions, medicines and clothing for use or consumption by their servants who are living with them such servants being regarded as forming part of the families of such persons, in a broad acceptation of that word.

[Bonded warehouses]

With reference to Article III of the treaty signed today, I have the honor to state that the Government of the United States of America has no desire

to conduct a bonded warehouse business in the Canal Zone, or, in fact to continue the "hold for orders" business in the terminal ports of the Canal as now conducted by the Panama Canal, any longer than until such time as satisfactory bonded warehouse facilities may become available at reasonable rates in Panamanian jurisdiction. At such time, the Government of the United States of America, in order to assist Panamanian business, will be glad voluntarily to withdraw from the conduct of "hold for orders" business and to abstain therefrom for so long as satisfactory bonded warehouse facilities may continue to be available at reasonable rates in Panamanian jurisdiction.

[Services limited to Canal Zone residents]

With reference to Article III of the treaty signed today and to the joint statement issued by President Arias and President Roosevelt on October 17, 1933, I have the honor to advise you that the Canal Zone authorities will continue to take administrative measures to limit the use and services of hospitals, dispensaries, restaurants, lunch-rooms, messes, clubhouses and moving picture houses maintained and operated in the Canal Zone to residents of the Canal Zone and to the following persons who may not be residents of the Canal Zone and members of their families actually living with them: officers and employees of the Government of the United States of America, the Panama Canal or the Panama Railroad Company and members of the armed forces of the United States of America. As regards laundries and cleaning and pressing establishments so maintained and operated, similar restrictions will be made, and moreover such service of laundries and cleaning and pressing establishments will not be available for ships and their crews and passengers transiting the Canal so long as satisfactory service is furnished by similar establishments in Panama.

It is understood that these measures will not preclude admission to and services of the hospitals and dispensaries of the United States of America in cases of emergencies occurring within the Canal Zone, and that those facilities will likewise be available for officers and members of the crews of ships arriving at the Canal Zone ports; and that these measures will not preclude admission to the restaurants, lunch-rooms, messes, clubhouses and moving picture houses of guests of the persons entitled to use these establishments when the admission or consumption expenses are paid by those persons.

[Smuggling]

With reference to Section 4 of Article III of the treaty signed today wherein it is stated that the Government of the United States of America will continue to coöperate in all proper ways with the Republic of Panama to prevent smuggling into territory under the jurisdiction of the Republic of goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America, I have the

honor to state that the Governor of the Panama Canal will be prepared to appoint a representative to meet with a representative appointed by your Government in order that regular and continuing opportunity may be afforded for mutual conference and helpful exchange of views bearing on this question.

[Private business enterprises]

With reference to Section 5 of Article III of the treaty signed today regulating the establishment in the Canal Zone of private business enterprises, I have the honor to express the understanding of the Government of the United States of America that the provisions of this section shall not prevent the establishment in the Canal Zone of private enterprises temporarily engaged in construction work having a direct relation to the operation, maintenance, sanitation or protection of the Canal.

[Sale of goods to ships]

The Secretary of State (Hull) to the Members of the Panamanian Treaty Commission (Alfaro and Garay)

With reference to the question of the sale to ships of goods imported into the Canal Zone by the Government of the United States of America, I have the honor to advise you that it will be the policy of this Government to effect such sales on the following basis:

> Articles classed by the Panama Canal as "ships stores," such as articles, materials and supplies necessary for the navigation, propulsion and upkeep of vessels, will continue to be sold as at present;
>
> Articles classed by the Panama Canal as tourist or luxury goods will not be sold to ships;
>
> Articles classed by the Panama Canal as "sea stores," such as articles for the use or consumption of the passengers and crew of the ship upon its voyage, and articles of other classes, will be sold at prices which, in the judgment of the Government of the United States of America and insofar as may appear feasible, will afford merchants of Panama fair opportunity to sell on equal terms. To arrive at the prices at which these articles will be sold to ships the retail prices of such articles to Canal Zone employees will be taken as a base, and a surcharge added thereto, when necessary; and no discount for purchases of large quantities will be granted to ships making such purchases.

For your information I am enclosing herewith four lists illustrative but not in any sense exhaustive of the various articles included in the four classes mentioned above, namely: (1) ships stores; (2) tourist or luxury goods; (3) sea stores; and, (4) articles of other classes.

It is the hope of the Government of the United States of America that in benefit of Panamanian commerce merchants of Panama may be able to furnish in satisfactory quantities and qualities and at reasonable prices

many or all of the articles classed as "sea stores" and as "articles of other classes" purchased by ships arriving at terminal ports of the Canal or transiting the Canal. It will be the policy of the United States of America that whenever and for so long as merchants of Panama are in fact able to furnish certain articles as so described in satisfactory quantities and qualities and at reasonable prices, the Canal Zone commissaries will refrain from selling like articles to ships.

In accordance with the policy of affording merchants of Panama full opportunity for making sales to ships, the launch facilities now employed by the Government of the United States of America in effecting sales to ships will be made available on equal terms to merchants of Panama, subject to appropriate administrative regulations of the Canal Zone.

The Governor of the Panama Canal will be prepared to appoint a representative to meet with a representative of Panamanian commerce appointed by your Government, in order that regular and continuing opportunity may be afforded for mutual conference and helpful exchange of views bearing on these questions, including the amount of the surcharge to be established, when necessary, in connection with "sea stores" and "articles of other classes."

[*Enclosures*]

SHIPS STORES

Fuel
Oil and grease
Hardware (bolts, nuts, nails, tools, et cetera)
Paints
Disinfectants and insecticides
Rope, cable, chain

TOURIST OR LUXURY GOODS

Articles of personal adornment
Women's and children's fancy and foreign wearing apparel
Perfumes and expensive lotions and fancy and foreign toilet articles
Foreign high quality linens, table ware and house furnishing articles
Expensive and foreign bolt goods
Men's foreign articles and wearing apparel
Panama hats
Liquors, wines, and beer

SEA STORES

Goods only of standard quality and almost without exception of American source
Food supplies
Medical supplies
Stationery and stationery supplies
Galley and table utensils and equipment
Table and bunk linen
Mosquito bars, canvas, cheese cloth
Work clothes
Cleaning materials and equipment

ARTICLES OF OTHER CLASSES

Goods similar to those listed under sea stores, but of better than standard quality
Many articles of many classes, such as those sold in department stores, excepting those articles classed under "tourist or luxury goods."

Members of the Panamanian Treaty Commission to the Secretary of State

We have the honor to acknowledge the receipt of Your Excellency's kind communication, in which you indicate what will be the policy of the United States of America in regard to the sale to ships of articles imported by the United States into the Canal Zone

With regard to this matter the Government of the Republic of Panama must make a special reservation of its rights, in conformity with its opinion that the exemptions covered by Article XIII of the Convention of November 18, 1903, were stipulated exclusively for the benefit of the Canal enterprise, of the persons in the service of the United States of America in connection therewith, and of their families; but until an understanding is reached regarding this matter, the Panamanian Government desires to express its deep satisfaction at the decision of the Government of the United States of America to put into effect measures such as those set forth in the note to which this is a reply, for the purpose of restricting sales to ships, which in former times had been made without any limitation. The Panamanian Government feels an equal satisfaction at the basic purpose set forth in the said note that the business of provisioning vessels arriving at terminal ports of the Canal or transiting the Canal will be left in the hands of the merchants of Panama and that the Government of the United States of America will abstain from making such sales whenever and for so long as merchants of Panama effectively demonstrate their ability to supply merchandise to vessels in satisfactory quantities and qualities and at reasonable prices.

Our Government is prepared to appoint a representative selected by the business men of Panama to come to meet with a representative of the Canal Administration, in order that regular and continuing opportunity may be afforded for conference and coöperation for the accomplishment of the above-mentioned purposes.

[Port facilities]

With reference to the second paragraph of Article V of the treaty signed today which pertains, in part, to facilities established or to be established in the ports of Panamá and Colón by the Republic of Panama or by its authority, we have the honor to confirm the agreement reached during the negotiations that such provisions are not intended to prejudice the right of the Panama Railroad Company, derived from its concessions, to own and operate port facilities in those ports or any such rights as may pass from the said company to the Government of the United States of America.

[Immigration laws and passage from Canal Zone to Republic of Panama]

With reference to the third paragraph of Article V of the treaty signed today in which is recognized the right of the Republic of Panama to determine what persons or classes of persons arriving at ports of the Canal Zone

shall be admitted to the Republic of Panama and to determine likewise what persons or classes of persons arriving at such ports shall be excluded from admission to the Republic of Panama, we have the honor to express the understanding of the Government of the Republic of Panama that this provision does not prejudice in any way the effect of the stipulation contained in the third paragraph of Article IV, with regard to persons in the service of the United States of America or residing in the Canal Zone, passing from the Canal Zone into the jurisdiction of the Republic of Panama.

[Health service of Panama]

I have the honor to confirm my understanding of the agreement reached during the negotiation of the treaty signed today to the effect that, in furtherance of the purpose of Article VII of the Convention of November 18, 1903, so far as it relates to the sanitation of the cities of Panamá and Colón, the Health Services of the Republic of Panama and of the Panama Canal will give consideration to the advisability of discussing and concluding agreements which might well take as a basis for formulation the proposals advanced in October 1931, by the Director General of Health and Welfare of the Republic of Panama and the Chief Health Officer of the Panama Canal for the amplification, extension and modernization of the health service of the City of Panamá.

[Water works and sewers in Panama and Colon]

Members of the Panamanian Treaty Commission to the Secretary of State

In the course of the recent negotiations for a revision of the Convention of November 18, 1903, we have brought to the attention of your Government certain questions which have arisen in respect of that part of Article VII of the said convention which refers to the construction by the United States of America of the water works and sewers in the cities of Panamá and Colón, and to the amortization of the cost thereof within a period of fifty years, thinking at first that these matters could be disposed of during the negotiations.

It was found, however, that to reach a complete understanding of these matters a long, painstaking and exhaustive examination of the technical, legal and financial aspects thereof would be required, and it was therefore decided that formal discussion of these questions would be held in abeyance and that after the conclusion of the new treaty the two Governments would engage in friendly discussions in an endeavor to arrive at a fair and mutually satisfactory agreement.

It is the understanding of our Government that such discussions will involve a study of the contracts of September 30, 1910, between the Government of the Republic of Panama and the Isthmian Canal Commission, and an examination of the accounts between the two administrations relating to

water rates in the cities of Panamá and Colón. In this connection it is believed that due consideration should be given, among other things, to the representations made by the Panamanian Commission in the course of the recent negotiations, and especially to its memorandum of March 12, 1935, and its aide-memoire of August 14, 1935

The Secretary of State to the Members of the Panamanian Treaty Commission

I have the honor to acknowledge the receipt of your note of today's date, reading as follows: [Text of foregoing note.]

In reply I have the honor to advise you that the Government of the United States of America, in accordance with the procedure outlined in your note under reference, will be pleased to instruct the American Minister in Panama to arrange for conversations between the appropriate authorities of the Republic of Panama and of the Canal Zone in order that the Government of the Republic of Panama may present such specific proposals in the premises as it may desire, and in order that an opportunity may thus be afforded for reaching an agreement on these matters satisfactory to both Governments.

[Panamanian citizens employed by the Panama Canal and Railroad]

With reference to the representations made by you during the negotiation of the treaty signed today, regarding Panamanian citizens employed by the Panama Canal or by the Panama Railroad Company, I have the honor to state that the Government of the United States of America, in recognition of the special relationship between the United States of America and the Republic of Panama with respect to the Panama Canal and the Panama Railroad Company, maintains and will maintain as its public policy the principle of equality of opportunity and treatment set down in the Order of December 23, 1908, of the Secretary of War, and in the Executive Orders of February 2, 1914, and February 20, 1920, and will favor the maintenance, enforcement or enactment of such provisions, consistent with the efficient operation and maintenance of the Canal and its auxiliary works and their effective protection and sanitation, as will assure to Panamanian citizens employed by the Canal or the Railroad equality of treatment with employees who are citizens of the United States of America.

[Monetary Agreement]

I have the honor to refer to our conversations with respect to the effect upon the Monetary Agreement of June 20, 1904, between the United States of America and the Republic of Panama as modified by the exchanges of notes of March 26–April 2, 1930, and of May 28–June 6, 1931, of the action taken by the President of the United States of America in his Proclamation of January 31, 1934, reducing the weight of the gold dollar of the United States of America.

It has been recognized that, as a result of this action, the provision of the Monetary Agreement that the monetary unit of the Republic of Panama should be a gold balboa of the weight of one gram, 672 milligrams, nine-tenths fine, is no longer consistent with the necessary condition of the agreement that the standard unit of value of the United States of America, the dollar, and the standard unit of value of the Republic of Panama, the balboa, should continue at a parity at the rate of one dollar for one balboa. It has also been recognized that in the Republic of Panama and in the Canal Zone silver balboas and fractional currency of the Republic are circulating together with United States currency at the rate of one balboa for one dollar.

For these reasons, it is desirable that the existing Monetary Agreement, as modified, be further modified to make provision for the reduction of the weight of the gold balboa so that the legal standard units of value of the Republic of Panama and of the United States of America shall be equal. Accordingly, for the purpose of Article VII of the General Treaty signed today, the balboa shall be regarded as defined to consist of 987½ milligrams of gold of 0.900 fineness.

It is understood that the reduction in the weight of the gold balboa shall not necessitate an alteration of the weight of the silver coins of the Republic of Panama, but that these shall continue to be of the same size, weight and fineness as at present.

Notwithstanding any language contained in the existing Monetary Agreement, as modified, which has been interpreted or might be interpreted as limiting the number of coins of any denomination to be issued by the Republic of Panama within the total amount of coins of all denominations, it is now understood and agreed that the Monetary Agreement, as modified, shall not be considered as contemplating any such limitation, so that, as long as such total amount is not exceeded, that total amount may be apportioned among the coins of the various denominations referred to in the Agreement as may seem fitting to the Government of the Republic of Panama.

As a further modification of the existing Monetary Agreement, it is agreed that the Government of the United States of America shall not be required to accept Panamanian silver currency for the payment of tolls for the use of the Panama Canal.

EXCHANGE OF NOTES BETWEEN THE SECRETARY OF STATE (HULL) AND THE PANAMANIAN MINISTER (BOYD)

Washington, D. C., February 1, 1939

1. In connection with the declared willingness of both the Government of the United States of America and the Government of the Republic of Panama to coöperate for the purpose of insuring the full and perpetual

enjoyment of the benefits of all kinds which the Canal should afford them (Article I of the General Treaty of March 2, 1936) the word "maintenance" as applied to the Canal shall be construed as permitting expansion and new construction when these are undertaken by the Government of the United States of America in accordance with the said treaty.

2. The holding of maneuvers or exercises by the armed forces of the United States of America in territory adjacent to the Canal Zone is an essential measure of preparedness for the protection of the neutrality of the Panama Canal, and when said maneuvers or exercises should take place, the parties shall follow the procedure set forth in the records of the proceedings of the negotiations of the General Treaty of March 2, 1936, which proceedings were held on March 2, 1936.

3. As set forth in the records of the proceedings of the negotiations of the General Treaty of March 2, 1936, which proceedings were held on March 16, 1935, in the event of an emergency so sudden as to make action of a preventive character imperative to safeguard the neutrality or security of the Panama Canal, and if by reason of such emergency it would be impossible to consult with the Government of Panama as provided in Article X of said treaty, the Government of the United States of America need not delay action to meet this emergency pending consultation, although it will make every effort in the event that such consultation has not been effected prior to taking action to consult as soon as it may be possible with the Panamanian Government.

The Secretary of State (Hull) to the Panamanian Ambassador (Boyd)

DEPARTMENT OF STATE
WASHINGTON
July 25, 1939

EXCELLENCY:

I understand from the debate in the Senate of the United States yesterday on the treaties signed with Panama, March 2, 1936, that the question was raised as to whether the Assembly of Panama had the notes and minutes of the treaty negotiations before it at the time the treaties were considered and ratified by that body.

I shall thank you to advise me definitely as to whether the notes and minutes of the negotiations were before the Assembly of Panama and were thoroughly understood and considered by the Assembly in connection with its ratification of the aforesaid treaties.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL

His Excellency
Señor Dr. Don AUGUSTO S. BOYD
Ambassador of Panama

The Panamanian Ambassador (Boyd) to the Secretary of State (Hull)

EMBAJADA DE PANAMA
WASHINGTON
July 25, 1939

EXCELLENCY:

I am in receipt of Your Excellency's note of this date in which you state that you understand from the debate in the Senate of the United States yesterday on the treaties with Panama signed March 2, 1936, that the question was raised whether the Assembly of Panama had the notes and minutes of the treaty negotiations before it at the time the treaties were considered and ratified by that body.

I think that the best answer I may give to Your Excellency is to transcribe textually, in translation, law No. 37 of 1936 which was passed by our Assembly on the twenty-fourth of December, 1936, and which reads as follows:

The National Assembly of Panama
Decrees

Only article: there are hereby approved and ratified in all their parts the General Treaty, the Radio Communications Convention, the Convention on the Transfer of the stations of La Palma and Puerto Obaldía and the Convention on the Trans-Isthmian Highway, signed in the city of Washington, March 2, 1936, by plenipotentiaries of the Governments of the Republic of Panama and of the United States of America, which is done taking into account the Minutes and the Exchanges of Notes signed on the same date and which contain interpretations and explanations of certain important aspects of the General Treaty and of the conventions aforementioned.

From the law quoted above Your Excellency will observe that the minutes and the notes were before the Assembly and were considered and understood by it at the same time that the Assembly ratified the treaty and conventions above mentioned.

Accept, Excellency, the sentiments of my highest consideration.

AUGUSTO S. BOYD

His Excellency
CORDELL HULL
Secretary of State

PANAMA-UNITED STATES

CONVENTION FOR TRANS-ISTHMIAN HIGHWAY[1]

Signed at Washington, March 2, 1936; ratifications exchanged July 27, 1939

The United States of America and the Republic of Panama, in order to arrange for the completion of a highway between the cities of Panamá and Colón through territory under their respective jurisdictions, hereinafter referred to as the Trans-Isthmian Highway, have resolved to conclude a convention for that purpose and have appointed as their plenipotentiaries:

The President of the United States of America:

[1] U. S. Treaty Series, No. 945.

Mr. Cordell Hull, Secretary of State of the United States of America, and Mr. Sumner Welles, Assistant Secretary of State of the United States of America; and

The President of the Republic of Panama:

The Honorable Doctor Ricardo J. Alfaro, Envoy Extraordinary and Minister Plenipotentiary of Panama to the United States of America, and The Honorable Doctor Narciso Garay, Envoy Extraordinary and Minister Plenipotentiary of Panama on special mission;

Who, having communicated to each other their respective full powers, which have been found to be in good and due form, have agreed upon the following:

ARTICLE I

In order to make possible the completion of the Trans-Isthmian Highway, the Government of the United States of America undertakes to obtain such waiver from the Panama Railroad Company of its exclusive right to establish roads across the Isthmus of Panama as is necessary to enable the Government of the Republic of Panama to construct a highway from a point on the boundary of the Madden Dam area at Ahajuela to a point on the boundary of the Canal Zone near Cativá.

ARTICLE II

As a contribution to the completion of the Trans-Isthmian Highway, the United States of America will construct without delay and at its own expense that portion of the highway between the Canal Zone boundary near Cativá and a junction with the Fort Randolph Road near France Field, which portion shall thereafter be maintained by the Republic of Panama at its own expense.

ARTICLE III

Prior to the undertaking of further construction on the Trans-Isthmian Highway, each Government will appoint an equal number of representatives, who will constitute a joint board with authority to adjust questions of detail regarding the location, design and construction of the portions of the highway falling under the jurisdiction of each Government. Questions of detail on which the board may fail to reach an agreement will be referred to the two Governments for settlement.

ARTICLE IV

The sections of the Trans-Isthmian Highway which are to be constructed by each Government shall have the following minimum characteristics:

a. Pavement: concrete; normal width 18 feet, suitably widened on curves of 5 degrees or sharper; of the thickened edge type of 9″–7″–9″ section, with proper reinforcement with steel in accordance with good practice; provision for suitable longitudinal and transverse joints, sealed with an asphalt filler, and with adjacent slabs properly doweled.

b. Gradients: maximum 8 per cent.

c. Curves: maximum 12 degrees, properly superelevated and suitably widened pavement when of 5 degrees or sharper.

d. Bridges and Culverts: to be two-way, of a width of 20 feet; of capacity to carry live loads equivalent to 20-ton truck with 14 tons on rear axle and 6 tons on front axle; and so located and of such span or size as to afford adequate drainage under maximum flow.

e. Right of Way: to be of ample width to accommodate the pavement plus 4-foot berms and drainage ditches and to provide for suitable slopes in cuts and fills; the right to be reserved to each of the two Governments to install and use telegraph and telephone lines of either pole line construction or underground cable construction in that part of the Trans-Isthmian Highway subject to the jurisdiction of the other Government.

ARTICLE V

The portions of the Trans-Isthmian Highway which the two Governments undertake to construct according to the provisions of this convention will be completed within a period of ten years after the entrance into force of the convention. The two Governments will consult with each other with a view to coördinating the construction of the two portions of the highway so far as may be feasible in order that the usefulness of one portion may not be unduly impaired by a failure to complete the other portion.

ARTICLE VI

The United States of America and the Republic of Panama shall maintain in a good state of repair at all times the portions of the Trans-Isthmian Highway within their respective jurisdictions.

ARTICLE VII

Subject to the laws and regulations relating to vehicular traffic in force in their respective jurisdictions the United States of America and the Republic of Panama shall enjoy equally the use of the Trans-Isthmian Highway.

ARTICLE VIII

The present convention shall be ratified in accordance with the constitutional methods of the high contracting parties and shall take effect immediately on the exchange of ratifications which shall take place at Washington.

In witness whereof, the plenipotentiaries have signed this convention in duplicate in the English and Spanish languages, both texts being authentic, and have hereunto affixed their seals.

Done at the city of Washington the second day of March, 1936.

[SEAL] CORDELL HULL
[SEAL] SUMNER WELLES
[SEAL] R. J. ALFARO
[SEAL] NARCISO GARAY

NEUTRALITY OF THE UNITED STATES

DEFINITION OF A COMBAT AREA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

[*No. 2394—April 10, 1940*] [1]

Whereas Section 3 of the Joint Resolution of Congress approved November 4, 1939, provides as follows:

> (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall, by proclamation, define combat areas, and thereafter it shall be unlawful, except under such rules and regulations as may be prescribed, for any citizen of the United States or any American vessel to proceed into or through any such combat area. The combat areas so defined may be made to apply to surface vessels or aircraft, or both.
>
> (b) In case of the violation of any of the provisions of this section by any American vessel, or any owner or officer thereof, such vessel, owner, or officer shall be fined not more than $50,000 or imprisoned for not more than five years, or both. Should the owner of such vessel be a corporation, organization, or association, each officer or director participating in the violation shall be liable to the penalty hereinabove prescribed. In case of the violation of this section by any citizen traveling as a passenger, such passenger may be fined not more than $10,000 or imprisoned for not more than two years, or both.
>
> (c) The President may from time to time modify or extend any proclamation issued under the authority of this section, and when the conditions which shall have caused him to issue any such proclamation shall have ceased to exist he shall revoke such proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

And Whereas it is further provided by Section 13 of the said Joint Resolution that

> The President may, from time to time, promulgate such rules and regulations, not inconsistent with law as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

And Whereas on November 4, 1939 I issued a proclamation in accordance with the provision of law quoted above defining a combat area.

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred on me by Section 3 of the Joint Resolution of Congress approved November 4, 1939, do hereby find that the protection of citizens of the United States requires that there be an extension of the combat area defined in my proclamation of November 4, 1939, through or into which extended combat area it shall be unlawful, except under such rules and regulations as may be

[1] Department of State Bulletin, April 13, 1940, Vol. II, No. 42, p. 378.

prescribed, for any citizen of the United States or any American vessel, whether a surface vessel or an aircraft, to proceed.

And I do hereby define the extended combat area as follows:

All the navigable waters within the limits set forth hereafter.

Beginning at the intersection of the North Coast of Spain with the meridian of 2° 45′ longitude west of Greenwich;

Thence due north to a point in 43° 54′ north latitude;

Thence by a rhumb line to a point in 45° north latitude, 20° west longitude;

Thence due north to 58° north latitude;

Thence by a rhumb line to a point in 76° 30′ north latitude, 16° 35′ east longitude;

Thence by a rhumb line to a point in 70° north latitude, 44° east longitude;

Thence due south to the mainland of the Union of Soviet Socialist Republics;

Thence along the coastline of the Union of Soviet Socialist Republics, Finland, Norway, Sweden, the Baltic Sea and dependent waters thereof, Germany, Denmark, the Netherlands, Belgium, France, and Spain to the point of beginning.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred on me by the said Joint Resolution as made effective by this my proclamation issued thereunder, which is not specifically delegated by Executive order to some other officer or agency of this Government, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington this tenth day of April, in the year of our Lord nineteen hundred and forty, and of the Independence [SEAL] of the United States of America the one hundred and sixty-fourth.

FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL
Secretary of State

REGULATIONS UNDER SECTION 3 OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939

April 10, 1940 [1]

The Secretary of State announces that the regulations under Section 3 of the Joint Resolution of Congress approved November 4, 1939, which he promulgated on November 6 and November 17, 1939,[2] henceforth apply

[1] Department of State Bulletin, April 13, 1940, Vol. II, No. 42, p. 379.

[2] Printed in Supplement to this JOURNAL, January, 1940, pp. 61 and 63.

equally in respect to travel into or through the combat area defined in the President's Proclamation of April 10, 1940; provided however, that the exceptions authorized by paragraph numbered 2 of the regulations promulgated on November 6, 1939, shall not apply to American vessels which have cleared for a port or ports in the combat area but which had not entered that area prior to the date of these regulations.

(*Signed*) CORDELL HULL
Secretary of State

PROCLAMATION OF A STATE OF WAR BETWEEN GERMANY AND NORWAY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

[*No. 2398—April 25, 1940*] [1]

Whereas Section 1 of the Joint Resolution of Congress approved November 4, 1939, provides in part as follows:

> That whenever the President, or the Congress by concurrent resolution, shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

And Whereas it is further provided by Section 13 of the said Joint Resolution that

> The President may, from time to time, promulgate such rules and regulations, not inconsistent with law as may be necessary and proper to carry out any of the provisions of this Joint Resolution; and he may exercise any power or authority conferred on him by this Joint Resolution through such officer or officers, or agency or agencies, as he shall direct.

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred on me by the said Joint Resolution, do hereby proclaim that a state of war unhappily exists between Germany and Norway, and that it is necessary to promote the security and preserve the peace of the United States and to protect the lives of citizens of the United States.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred on me by the said Joint Resolution, as made effective by this my proclamation issued thereunder, which is not specifically delegated by Executive order to some other officer or agency of

[1] Department of State Bulletin, April 27, 1940, Vol. II, No. 44, p. 429.

this Government and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington this twenty-fifth day of April, in the year of our Lord nineteen hundred and forty, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL
Secretary of State

PROCLAIMING THE NEUTRALITY OF THE UNITED STATES IN THE WAR BETWEEN GERMANY, ON THE ONE HAND, AND NORWAY, ON THE OTHER HAND

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

[No. 2359—April 25, 1940] [1]

Whereas a state of war unhappily exists between Germany, on the one hand, and Norway, on the other hand;

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, in order to preserve the neutrality of the United States and of its citizens and of persons within its territory and jurisdiction, and to enforce its laws and treaties, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from any violation of the same, do hereby declare and proclaim that all of the provisions of my proclamation of September 5, 1939,[2] proclaiming the neutrality of the United States in a war between Germany and France; Poland; and the United Kingdom, India, Australia and New Zealand apply equally in respect to Norway.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington this twenty-fifth day of April, in the year of our Lord nineteen hundred and forty, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL
Secretary of State

[1] Department of State Bulletin, April 27, 1940, Vol. II, No. 44, p. 430.
[2] Printed in Supplement to this JOURNAL, January, 1940, p. 21.

USE OF PORTS OR TERRITORIAL WATERS OF THE UNITED STATES BY SUBMARINES OF FOREIGN BELLIGERENT STATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

[No. 2400—April 25, 1940] [1]

Whereas Section 11 of the Joint Resolution approved November 4, 1939, provides:

> Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

Whereas there exists a state of war between Germany and Norway;

Whereas the United States of America is neutral in such war;

Whereas by my proclamation of November 4, 1939,[2] issued pursuant to the provision of law quoted above, I placed special restrictions on the use of ports and territorial waters of the United States by the submarines of France; Germany; Poland; and the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa;

Now, Therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the foregoing provision of Section 11 of the Joint Resolution approved November 4, 1939, do by this proclamation declare and proclaim that the provisions of my proclamation of November 4, 1939, in regard to the use of the ports and territorial waters of the United States, exclusive of the Canal Zone, by the submarines of France; Germany; Poland; and the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa, shall also apply to the use of the ports and territorial waters of the United States, exclusive of the Canal Zone, by the submarines of Norway.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

[1] Department of State Bulletin, April 27, 1940, Vol. II, No. 44, p. 430.

[2] Printed in Supplement to this JOURNAL, January, 1940, p. 56.

Done at the City of Washington this twenty-fifth day of April, in the year of our Lord nineteen hundred and forty, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL
Secretary of State

REGULATIONS UNDER SECTION 2 (c) AND (i) OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939

April 25, 1940 [1]

The Secretary of State announces that the regulations under Section 2 (c) and (i) of the Joint Resolution of Congress approved November 4, 1939, which he promulgated on November 10 and November 25, 1939,[2] henceforth apply equally in respect to the export or transport of articles and materials to Norway.

CORDELL HULL
Secretary of State

REGULATIONS UNDER SECTION 5 OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939

April 25, 1940 [3]

The Secretary of State announces that the regulations under Section 5 of the Joint Resolution of Congress approved November 4, 1939, which he promulgated on November 6, and amended November 17, 1939,[4] henceforth apply equally in respect to travel by citizens of the United States on vessels of Norway.

CORDELL HULL
Secretary of State

RULES AND REGULATIONS GOVERNING THE SOLICITATION AND COLLECTION OF CONTRIBUTIONS FOR USE IN NORWAY

April 25, 1940 [5]

The Secretary of State announces that the rules and regulations under Section 8 of the Joint Resolution of Congress approved November 4, 1939, which he promulgated on November 6, 1939,[6] henceforth apply equally to the solicitation and collection of contributions for use in Norway.

CORDELL HULL
Secretary of State

[1] Department of State Bulletin, April 27, 1940, Vol. II, No. 44, p. 432.
[2] Printed in Supplement to this JOURNAL, January, 1940, pp. 71 and 72.
[3] Department of State Bulletin, April 27, 1940, Vol. II, No. 44, p. 431.
[4] Printed in Supplement to this JOURNAL, January, 1940, pp. 62 and 63.
[5] Department of State Bulletin, April 27, 1940, Vol. II, No. 44, p. 432.
[6] Printed in Supplement to this JOURNAL, January, 1940, p. 67.

UNITED STATES PROCLAMATIONS AND REGULATIONS CONCERNING THE WAR BETWEEN GERMANY, ON THE ONE HAND, AND BELGIUM, LUXEMBURG, AND THE NETHERLANDS, ON THE OTHER HAND

Proclamation of a state of war. No. 2404. *May 11, 1940.* (The same, *mutatis mutandis*, as Proclamation No. 2398, *supra*, p. 164.) Dept. of State Bulletin, May 11, 1940, Vol. II, No. 46, p. 489.

Proclaiming the neutrality of the United States. No. 2405. *May 11, 1940.* (The same, *mutatis mutandis*, as Proclamation No. 2399, *supra*, p. 165.) Dept. of State Bulletin, *ibid.*, p. 490.

Proclamation concerning the use of ports or territorial waters of the United States by submarines of foreign belligerent states. No. 2406. *May 11, 1940.* (The same, *mutatis mutandis*, as Proclamation No. 2400, *supra*, p. 166.) Dept. of State Bulletin, *ibid.*

Regulations under Sections 2 (c) and (f) of the Joint Resolution of Congress approved November 4, 1939. *May 11, 1940.* (The same, *mutatis mutandis*, as the Regulations applicable to Norway, *supra*, p. 167.) Dept. of State Bulletin, *ibid.*, p. 491.

Regulations under Section 5 of the Joint Resolution of Congress approved November 4, 1939. *May 11, 1940.* (The same, *mutatis mutandis*, as the regulations applicable to Norway, *supra*, p. 167.) Dept. of State Bulletin, *ibid.*, p. 492.

Rules and Regulations governing the solicitation and collection of contributions for use in Belgium, Luxemburg, and the Netherlands. *May 11, 1940.* (The same, *mutatis mutandis*, as the rules and regulations applicable to Norway, *supra*, p. 167.) Dept. of State Bulletin, *ibid.*

EXECUTIVE ORDER

REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

[*No. 8405—May 10, 1940*] [1]

Executive Order No. 8389 of April 10 1940, is amended to read as follows:

AMENDMENT OF EXECUTIVE ORDER NO. 6560, DATED JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

By virtue of the authority vested in me by Section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange, transfers of credit, and the export of coin and currency by adding the following sections after Section 8 thereof:

[1] Federal Register, May 11, 1940 (Vol. 5, No. 93), pp. 1677–1678.

Section 9. Notwithstanding any of the provisions of Sections 1 to 8, inclusive, of this order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect, or if involving property in which the Netherlands, Belgium or Luxembourg or any national thereof has at any time on or since May 10, 1940, had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside of the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

Section 10. *Additional Reports.*

A. Reports under oath shall be filed on such forms, at such time or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway, Denmark, the Netherlands, Belgium or Luxembourg or any national thereof is or was the owner, or in which Norway, Denmark, the Netherlands, Belgium or Luxembourg or any national thereof has or had any interest of any nature whatsoever, direct or indirect, and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information, including the production of any books of account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filed under this section.

Section 11. *Additional Definitions.* In addition to the definitions contained in Section 7, the following definitions are prescribed:

A. The terms "Norway" and "Denmark," respectively, mean the State and the Government of Norway and Denmark on April 8, 1940, the terms "the Netherlands," "Belgium," and "Luxembourg," mean the State and the Government of the Netherlands, Belgium and Luxembourg on May 10, 1940, and any political subdivisions, agencies and instrumentalities of any of the foregoing, including territories, dependencies and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. The terms "Norway," "Denmark," "the Netherlands" "Belgium" and "Luxembourg" respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise *de jure* or *de facto* sovereignty over the area which, on April 8,

1940, constituted Norway and Denmark and which on May 10, 1940, constituted the Netherlands, Belgium and Luxembourg.

B. The term "national" of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time on or since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

C. The term "national" of the Netherlands, Belgium or Luxembourg shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of the Netherlands, Belgium or Luxembourg at any time on or since May 10, 1940, but shall not include any individual domiciled and residing in the United States on May 10, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on May 10, 1940, had its principal place of business in the Netherlands, Belgium or Luxembourg, or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of the Netherlands, Belgium or Luxembourg, at any time on or since May 10, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

D. The term "banking institution" as used in Section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution."

Section 12. *Additional Regulations.* The Regulations of November 12, 1934, are hereby modified in so far as they are inconsistent with the provisions of Sections 9 to 11, inclusive, of this order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of Sections 9 to 11, inclusive, of this order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
May 10, 1940, 7:55 a. m., E.S.T.

REGULATIONS RELATING TO TRAVEL ON BELLIGERENT VESSELS

May 29, 1940 [1]

Pursuant to the authority contained in the President's Proclamation No. 2374 of November 4, 1939, issued pursuant to Section 1 of the Neutrality Act of 1939, I, Cordell Hull, Secretary of State of the United States, hereby prescribe the following regulation, amending the regulations issued on November 6, 1939, as amended by regulations issued on November 17, 1939 and December 14, 1939,[2] relating to travel on belligerent vessels:

American nationals may travel in belligerent aircraft over the Canadian provinces of New Brunswick, Nova Scotia, and Prince Edward Island.

CORDELL HULL
Secretary of State

UNITED STATES PROCLAMATIONS AND REGULATIONS CONCERNING THE WAR BETWEEN ITALY, ON THE ONE HAND, AND FRANCE AND THE UNITED KINGDOM, ON THE OTHER HAND

Proclamation of a state of war. No. 2407. *June 10, 1940.* (The same, *mutatis mutandis*, as Proclamation No. 2398, *supra*, p. 164.) Dept. of State Bulletin June 15, 1940 Vol. II, No. 51, p. 639.

Proclaiming the neutrality of the United States. No. 2408. *June 10, 1940.* (The same, *mutatis mutandis*, as Proclamation No. 2399, *supra*, p. 165.) Dept. of State Bulletin, *ibid.*

Proclamation concerning the use of the ports or territorial waters of the United States by submarines of foreign belligerent states. No. 2409. *June 10, 1940.* (The same, *mutatis mutandis*, as Proclamation No. 2400, *supra*, p 166.) Dept. of State Bulletin, *ibid.*, p. 641.

Proclamation defining a combat area. No. 2410. *June 11, 1940.* (The same, *mutatis mutandis*, as Proclamation No. 2394, *supra*, p. 162), except that the additional combat area is defined as follows:

All the navigable waters within the limits set forth hereafter:

1. Beginning at the intersection of the west coast of Morocco with the parallel of 33° 10′ north latitude;

Thence due west to 20° west longitude;

Thence due north to 37° 05′ north latitude;

Thence due east to the mainland of Portugal;

Thence along the coastline of Portugal, Spain, Gibraltar, Spain, France, Italy, Yugoslavia, Albania, and Greece to the intersection of the east coast of Greece with the parallel of 39° 40′ north latitude;

Thence due east to the mainland of Turkey;

Thence along the coastline of Turkey, Syria, Palestine, Egypt, Libya, Tunisia, Algeria, and Morocco to the point of beginning.

All the navigable waters within the limits set forth hereafter:

2. Beginning at the intersection of the north coast of Italian Somaliland with the meridian of 50° longitude east of Greenwich;

[1] Department of State Bulletin, June 1, 1940, Vol. II, No. 49, p. 612.

[2] Printed in Supplement to this JOURNAL, January, 1940, pp. 62, 63, 66.

Thence due north to the mainland of Arabia;
Thence eastward along the coast of Arabia to the meridian of 51° east longitude;
Thence due south to the mainland of Italian Somaliland;
Thence westward along the coast of Italian Somaliland to the point of beginning.

(Dept. of State Bulletin, *ibid.*, p. 641.)

Regulations under Section 2 (c) and (f) of the Joint Resolution of Congress approved November 4, 1939. *June 10, 1940.* (The same, *mutatis mutandis*, as the regulations applicable to Norway, *supra*, p. 167.) Dept. of State Bulletin, *ibid.*, p. 643.

Regulations under Section 5 of the Joint Resolution of Congress approved November 4, 1939. *June 10, 1940.* (The same, *mutatis mutandis*, as the regulations applicable to Norway, *supra*, p. 167.) Dept. of State Bulletin, *ibid.*, p. 644.

Rules and Regulations governing the solicitation and collection of contributions for use in Italy. *June 10, 1940.* (The same, *mutatis mutandis*, as the rules and regulations applicable to Norway, *supra*, p. 167.) Dept. of State Bulletin, *ibid.*

REGULATIONS UNDER SECTION 3 OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939

June 11, 1940 [1]

The Secretary of State announces that the regulations under Section 3 of the Joint Resolution of Congress approved November 4, 1939, which he promulgated on November 6 and November 17, 1939,[2] henceforth apply equally in respect to travel into or through the additional combat areas defined in the President's Proclamation of June 11, 1940; provided however, that the exceptions authorized by paragraph numbered 2 of the regulations promulgated on November 6, 1939, shall apply only to American vessels which, on the date of the issuance of these regulations, are within one of these additional combat areas, or in the Aegean Sea north of 39° 40′ north latitude, the Black Sea or waters connecting the two, or in the Red Sea or the Gulf of Aden west of 50° east longitude, and shall permit such vessels to proceed through those areas and waters only in accordance with directions issued to their operators by the United States Maritime Commission.

CORDELL HULL
Secretary of State

[1] Department of State Bulletin June 15, 1940, Vol. II, No. 51, p. 644.
[2] Printed in Supplement to this JOURNAL, January, 1940, pp. 61 and 63.

ARMISTICE BETWEEN FRANCE AND GERMANY[1]

Signed in the Forest of Compiègne, June 22, 1940, 6:50 p.m., German summer time

Between the Chief of the High Command of the armed forces, Colonel General (Wilhelm) Keitel, commissioned by the Fuehrer of the German Reich and Supreme Commander in Chief of the German armed forces, and the fully authorized plenipotentiaries of the French Government, General (Charles L. C.) Huntziger, chairman of the delegation; Ambassador (Leon) Noel, Rear Admiral (Maurice) Le Luc, Army Corps General Parisot and Air Force General (Jean-Marie Joseph) Bergeret, the following armistice treaty was agreed upon:

Article I

The French Government directs a cessation of fighting against the German Reich in France as well as in French possessions, colonies, protectorate territories, mandates, as well as on the seas.

It (the French Government) directs the immediate laying down of arms of French units already encircled by German troops.

Article II

To safeguard the interests of the German Reich, French state territory north and west of the line drawn on the attached map [2] will be occupied by German troops.

As far as the parts to be occupied still are not in control of German troops, this occupation will be carried out immediately after the conclusion of this treaty.

Article III

In the occupied parts of France the German Reich exercises all rights of an occupying Power. The French Government obligates itself to support with every means the regulations resulting from the exercise of these rights, and to carry them out with the aid of the French administration.

All French authorities and officials of the occupied territory, therefore, are to be promptly informed by the French Government to comply with the regulations of the German military commanders and to coöperate with them in a correct manner.

It is the intention of the German Government to limit the occupation of

[1] Translation transmitted by the Associated Press in Berlin and published in the New York Times and Washington Star, June 26, 1940.

[2] Not printed.

the west coast after ending hostilities with England to the extent absolutely necessary.

The French Government is permitted to select the seat of its government in unoccupied territory, or, if it wishes, to move to Paris. In this case, the German Government guarantees the French Government and its central authorities every necessary alleviation so that they will be in a position to conduct the administration of unoccupied territory from Paris.

ARTICLE IV

French armed forces on land, on sea and in the air are to be demobilized and disarmed in a period still to be set. Excepted are only those units which are necessary for maintenance of domestic order. Germany and Italy will fix their strength. The French armed forces in the territory to be occupied by Germany are to be hastily withdrawn into territory not to be occupied and be discharged. These troops, before marching out, shall lay down their weapons and equipment at the places where they are stationed at the time this treaty becomes effective. They are responsible for orderly delivery to German troops.

ARTICLE V

As a guarantee for the observance of the armistice, the surrender, undamaged, of all those guns, tanks, anti-defense weapons, warplanes, anti-aircraft artillery, infantry weapons, means of conveyance and munitions can be demanded from the units of the French armed forces which are standing in battle against Germany and which at the time this agreement goes into force are in territory not to be occupied by Germany.

The German armistice commission will decide the extent of delivery.

ARTICLE VI

Weapons, munitions and war apparatus of every kind remaining in the unoccupied portion of France are to be stored and/or, secured under German and/or, Italian control—so far as not released for the arming allowed to French units.

The German High Command reserves the right to direct all those measures which are necessary to exclude unauthorized use of this material. Building of new war apparatus in unoccupied territory is to be stopped immediately.

ARTICLE VII

In occupied territory, all the land and coastal fortifications, with weapons, munitions and apparatus and plants of every kind are to be surrendered undamaged. Plans of these fortifications as well as plans of those already conquered by the German troops are to be handed over.

Exact plans regarding prepared blastings, land mines, obstructions, time fuses, barriers for fighting, etc., shall be given to the German High Com-

mand. These hindrances are to be removed by French forces upon German demand.

ARTICLE VIII

The French war fleet is to collect in ports to be designated more particularly and under German and/or Italian control, to demobilize and lay up—with the exception of those units released to the French Government for protection of French interests in its colonial empire.

The peace-time stations of ships should control the designation of ports.

The German Government solemnly declares to the French Government that it does not intend to use the French war fleet which is in harbors under German control for its purposes in war, with the exception of units necessary for the purposes of guarding the coast and sweeping mines.

It further solemnly and expressly declares that it does not intend to bring up any demands respecting the French war fleet at the conclusion of a peace.

All warships outside France are to be recalled to France with the exception of that portion of the French war fleet which shall be designated to represent French interests in the colonial empire.

ARTICLE IX

The French High Command must give the German High Command the exact location of all mines which France has set out, as well as information on other harbor and coastal obstructions and defense facilities. In so far as the German High Command may require, French forces must clear away the mines.

ARTICLE X

The French Government is obligated to forbid any portion of its remaining armed forces to undertake hostilities against Germany in any manner.

The French Government also will prevent members of its armed forces from leaving the country and prevent armaments of any sort, including ships, planes, etc. being taken to England or any other place abroad.

The French Government will forbid French citizens to fight against Germany in the service of states with which the German Reich is still at war. French citizens who violate this provision are to be treated by German troops as insurgents.

ARTICLE XI

French commercial vessels of all sorts, including coastal and harbor vessels which are now in French hands, may not leave port until further notice. Resumption of commercial voyages will require approval of the German and Italian Governments.

French commercial vessels will be recalled by the French Government or, if return is impossible, the French Government will instruct them to enter neutral harbors.

All confiscated German commercial vessels are, on demand, to be returned (to Germany) undamaged.

ARTICLE XII

Flight by any airplane over French territory shall be prohibited. Every plane making a flight without German approval will be regarded as an enemy by the German Air Force and treated accordingly.

In unoccupied territory air fields and ground facilities of the air force shall be under German and Italian control.

Demand may be made that such air fields be rendered unusable. The French Government is required to take charge of all foreign airplanes in the unoccupied region to prevent flights They are to be turned over to the German armed forces.

ARTICLE XIII

The French Government obligates itself to turn over to German troops in the occupied region all facilities and properties of the French armed forces in undamaged condition.

It (the French Government) also will see to it that harbors, industrial facilities and docks are preserved in their present condition and damaged in no way.

The same stipulations apply to transportation routes and equipment, especially railways, roads and canals, and to the whole communications network and equipment, waterways and coastal transportation services.

Additionally, the French Government is required on demand of the German High Command to perform all necessary restoration labor on these facilities.

The French Government will see to it that in the occupied region necessary technical personnel and rolling stock of the railways and other transportation equipment, to a degree normal in peacetime, be retained in service.

ARTICLE XIV

There is an immediate prohibition of transmission for all wireless stations on French soil. Resumption of wireless connections from the unoccupied portion of France requires a special regulation.

ARTICLE XV

The French Government obligates itself to convey transit freight traffic between the German Reich and Italy through unoccupied territory to the extent demanded by the German Government.

ARTICLE XVI

The French Government, in agreement with the responsible German officials, will carry out the return of population into occupied territory.

ARTICLE XVII

The French Government obligates itself to prevent every transference of economic valuables and provisions from the territory to be occupied by German troops into unoccupied territory or abroad.

These valuables and provisions in occupied territory are to be disposed of only in agreement with the German Government. In that connection, the German Government will consider the necessities of life of the population in unoccupied territory.

ARTICLE XVIII

The French Government will bear the costs of maintenance of German occupation troops on French soil

ARTICLE XIX

All German war and civil prisoners in French custody, including those under arrest and convicted who were seized and sentenced because of acts in favor of the German Reich, shall be surrendered immediately to German troops.

The French Government is obliged to surrender upon demand any Germans named by the German Government in France as well as in French possessions, colonies, protectorate territories and mandates.

The French Government binds itself to prevent removal of German war and civil prisoners from France into French possessions or into foreign countries. Regarding prisoners already taken outside of France, as well as sick and wounded German prisoners who cannot be transported, exact lists with the places of residence are to be produced. The German High Command assumes care of sick and wounded German war prisoners.

ARTICLE XX

French troops in German prison camps will remain prisoners of war until conclusion of a peace.

ARTICLE XXI

The French Government assumes responsibility for the security of all objects and valuables whose undamaged surrender or holding in readiness for German disposal is demanded in this agreement or whose removal outside the country is forbidden. The French Government is bound to compensate for all destruction, damage or removal contrary to agreement.

ARTICLE XXII

The Armistice Commission, acting in accordance with the direction of the German High Command, will regulate and supervise the carrying out of the armistice agreement. It is the task of the Armistice Commission further

to insure the necessary conformity of this agreement with the Italian-French armistice.

The French Government will send a delegation to the seat of the German Armistice Commission to represent the French wishes and to receive regulations from the German Armistice Commission for executing [the agreement].

ARTICLE XXIII

This armistice agreement becomes effective as soon as the French Government also has reached an agreement with the Italian Government regarding cessation of hostilities.

Hostilities will be stopped six hours after the moment at which the Italian Government has notified the German Government of conclusion of its agreement. The German Government will notify the French Government of this time by wireless.

ARTICLE XXIV

This agreement is valid until conclusion of a peace treaty. The German Government may terminate this agreement at any time with immediate effect if the French Government fails to fulfill the obligations it assumes under the agreement.

This armistice agreement [is] signed in the Forest of Compiègne, June 22, 1940, at 6:50 P.M., German summer time.

HUNTZIGER
KEITEL

APPENDIX

The line mentioned in Article II of the armistice agreement begins in the east on the French-Swiss border at Geneva and runs thence nearly over the villages of Dole, Paray, Le Monial and Bourges to approximately 20 kilometers (about 12 miles) east of Tours. From there it goes at a distance of 20 kilometers east of the Tours-Angouleme-Liborune Railway line and extends through Mont de Marsan and Orthez to the Spanish border.

ARMISTICE BETWEEN FRANCE AND ITALY[1]

Signed at the Villa Incisa, near Rome, June 24, 1940, 7:15 p.m., Rome time

ARTICLE I

France will cease hostilities in metropolitan territory, in French North Africa, in the colonies and in territories under French mandate. France will also cease hostilities in the air and on the sea.

[1] Translation transmitted by the Associated Press in Rome and published in the New York Times and Washington Star, June 26, 1940.

ARTICLE II

When the armistice comes into force and for the duration of the armistice, Italian troops will stand on their advanced lines in all theaters of operations.

ARTICLE III

In French metropolitan territory, a zone situated between the lines referred to in Article II and a line drawn 50 kilometers as the crow flies beyond the Italian lines proper, shall be dimilitarized for the duration of the armistice.

In Tunis, the demilitarized zone between the present Libyan-Tunisian frontier and the line drawn on an attached map[2] shall be demilitarized for the duration of the armistice.

In Algeria and in French African territories south of Algeria which border on Libya, a zone 200 kilometers wide adjoining the Libyan frontier, shall be demilitarized for the duration of the armistice.

For the duration of hostilities between Italy and the British Empire and for the duration of the armistice, the French Somaliland coast shall be entirely demilitarized.

Italy shall have full and constant right to use the port of Djibuti with all its equipment, together with the French section of the Djibuti-Addis Ababa Railway, for all kinds of transport.

ARTICLE IV

The zones to be demilitarized shall be evacuated by French troops within ten days after the cessation of hostilities, except only for the personnel strictly necessary for the supervision and maintenance of fortification works, barracks, arms depots and military buildings, and the troops required to maintain order in the interior as shall be determined later by the Italian Armistice Commission.

ARTICLE V

Under full reserve of the right mentioned in Article X, which follows, all arms, supplies and ammunition in the zones to be demilitarized in French metropolitan territory adjoining Libya, together with the arms surrendered to the troops effecting the evacuation of the territories concerned, must be removed within fifteen days.

Fixed armaments in the fortification works and the accompanying ammunition must, in the period, be rendered useless in the coastal territory of French Somaliland. All movable arms and ammunition together with those to be given up to the troops effecting the evacuation of the territory shall be laid down within fifteen days in places to be indicated by the Italian Armistice Commission.

In the case of fixed armaments and ammunition in fortification works in

[2] Not printed.

the above territory, the same procedure shall be followed as for French metropolitan territory and territory adjoining Libya.

ARTICLE VI

So long as hostilities continue between Italy and the British Empire, the maritime military fortified areas and naval bases of Toulon, Bizerte, Ajaccio and Oran shall be demilitarized until the cessation of hostilities against the above-named empire.

This demilitarization is to be achieved within fifteen days.

It must be such as to render such fortresses and bases useless in so far as their offensive or defensive effect is concerned. Their capacity for supply will be limited, under the control of the Italian Armistice Commission, to the needs of the French war vessels which, under the conditions of Article XII, will keep their base there.

ARTICLE VII

In the zones including either military or naval fortresses or naval bases to be demilitarized, the French civil authorities naturally will remain in charge, as well as police forces necessary to the maintenance of public order; there will also remain there the territorial, military and maritime authorities who will be designated by the Italian Armistice Commission.

ARTICLE VIII

The Italian Armistice Commission will determine geographically the exact limits of the zones, military and maritime fortresses and naval bases to be demilitarized and the details by which this demilitarization will be carried out. The same commission will have full and continuous rights to supervise the execution in these zones fortresses and bases, of everything which is mentioned in the foregoing articles, whether applying to the methods of inspection or to the conduct of its commissions on the spot.

ARTICLE IX

All armed land, sea and air forces in metropolitan France shall be demobilized and disarmed within a specified period to be fixed later, except such formations as are necessary to maintain internal order. The strength and armament of such formations will be determined by Italy and Germany.

So far as the territories of French North Africa, Syria and the coast of French Somaliland are concerned, the Italian Armistice Commission will take into account, in fixing the procedure for demobilization and disarmament, the particular importance of maintaining order in those territories.

ARTICLE X

Italy reserves the right, as a guarantee of the execution of the armistice convention, to demand the surrender in whole or in part of the collective

arms of the infantry and artillery, armored cars, tanks, motor vehicles and horse vehicles, together with ammunition belonging to units which have been engaged or have been facing Italian forces.

The above arms and materials must be surrendered in the state in which they are at the time of the armistice.

Article XI

Arms, munitions and war materials of whatever sort which remained in French non-occupied territory, including arms and munitions evacuated from this zone and from military and maritime fortresses and naval bases to be demilitarized and excluding that part which may be left for use of units permitted to remain in operation, will be gathered together and deposited under Italian and German control. The manufacture of war material of any sort in non-occupied territory must cease immediately.

Article XII

Units of the French fleet shall be concentrated in ports to be indicated, and demobilized and disarmed under the control of Italy and Germany, except for such units as the Italian and German Governments shall agree upon for the safeguard to French colonial territories. The determining factor in the selection of the ports referred to above shall be the assignment of naval units in peacetime.

All warships not in French metropolitan waters, except those which shall be recognized as necessary to safeguard French colonial interests, shall be brought back to metropolitan ports.

The Italian Government declares that it does not intend to use, in the present war, units of the French fleet placed under its control, and that on conclusion of peace it does not intend to lay claim to the French fleet.

For the duration of the armistice the Italian Government may ask French ships to sweep mines.

Article XIII

All mined areas will be reported to the Italian High Command. French authorities will take measures within ten days to remove by their own means all railway and highway obstacles, mined fields and mined areas of every sort which have been established in the region of military and maritime fortresses and naval bases which are to be demilitarized.

Article XIV

The French Government, in addition to the obligation not to carry on hostilities in any form anywhere against Italy, undertakes to prevent members of its armed forces and French citizens generally from leaving national territory to take part in hostilities against Italy.

Against violators of this rule and against French citizens already abroad

who collectively or individually may undertake acts of hostility against Italy, Italian troops will employ treatment generally accorded combatants outside the law.

ARTICLE XV

The French Government shall undertake to prevent warships, airplanes, arms, war materials and munitions of every kind belonging to France from being sent to territories belonging to the British Empire or to other foreign states.

ARTICLE XVI

Departure of all the French merchant marine is forbidden until such time as the Italian and German Governments may permit partial or total resumption of commercial or maritime traffic.

The French merchant marine which is not at the moment of the armistice in French ports or in some way under French control will be either recalled to French ports or sent to neutral ports.

ARTICLE XVII

All Italian merchant vessels which have been captured will be immediately restored with their entire cargoes which were consigned to Italy at the moment of capture. Also there must be restored all non-perishable merchandise either Italian or consigned to Italy which had been captured aboard non-Italian vessels.

ARTICLE XVIII

All airplanes which are in French territory or territory under French control are forbidden to take off. All airports and all airport equipment in such territories will be under German and Italian control. Foreign airplanes which are in the territories referred to above will be delivered to Italian and German military authorities.

ARTICLE XIX

Until the Italian and German Governments shall have decided otherwise, all wireless transmission from French metropolitan territory generally is prohibited.

Conditions for wireless communication between France and North Africa, Syria and French Somaliland are to be determined by the Italian Armistice Commission.

ARTICLE XX

Goods shall be freely transported between Germany and Italy through non-occupied French territories.

ARTICLE XXI

All Italian prisoners of war and Italian civilians who have been interned

or arrested and sentenced for political reasons, crimes or on account of the war shall be immediately handed over to the Italian Government.

ARTICLE XXII

The French Government shall guarantee the good preservation of all material that it has or may have to deliver under the terms of the armistice convention.

ARTICLE XXIII

The Italian Armistice Commission, under the direction of the High Command, will be in charge of directing and supervising, either directly or by means of its agents, execution of this armistice convention. It will also be charged with adjusting this convention with that already concluded between Germany and France.

ARTICLE XXIV

At the headquarters of the commission referred to in the previous article there will be established also a French delegation charged with presenting the desires of its own Government regarding carrying out of this convention and with transmitting to the French authorities the orders of the Italian Armistice Commission.

ARTICLE XXV

This armistice convention will become effective upon signature. Hostilities will cease in all theaters of operation six hours from the moment in which the Italian Government communicates to the German Government the conclusion of this agreement. The Italian Government will notify the French Government of this moment by radio.

ARTICLE XXVI

The convention shall remain in force until the conclusion of a peace treaty, but may be denounced by Italy at any time in the event the French Government does not fulfill its obligations.

HUNTZIGER
BADOGLIO

GREAT BRITAIN—UNITED STATES

EXCHANGE OF NAVAL AND AIR BASES FOR OVER-AGE DESTROYERS [1]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

To the Congress of the United States:

I transmit herewith for the information of the Congress notes exchanged

[1] House Doc. No. 943, 76th Cong., 3d Sess.

between the British Ambassador at Washington and the Secretary of State on September 2, 1940, under which this Government has acquired the right to lease naval and air bases in Newfoundland, and in the islands of Bermuda, the Bahamas, Jamaica, St. Lucia, Trinidad, and Antigua, and in British Guiana; also a copy of an opinion of the Attorney General dated August 27, 1940, regarding my authority to consummate this arrangement.[2]

The right to bases in Newfoundland and Bermuda are gifts—generously given and gladly received. The other bases mentioned have been acquired in exchange for fifty of our over-age destroyers.

This is not inconsistent in any sense with our status of peace. Still less is it a threat against any nation. It is an epochal and far-reaching act of preparation for continental defense in the face of grave danger.

Preparation for defense is an inalienable prerogative of a sovereign state. Under present circumstances this exercise of sovereign right is essential to the maintenance of our peace and safety. This is the most important action in the reinforcement of our national defense that has been taken since the Louisiana Purchase. Then as now, considerations of safety from overseas attack were fundamental.

The value to the Western Hemisphere of these outposts of security is beyond calculation. Their need has long been recognized by our country, and especially by those primarily charged with the duty of charting and organizing our own naval and military defense. They are essential to the protection of the Panama Canal, Central America, the northern portion of South America, the Antilles, Canada, Mexico, and our own eastern and Gulf seaboards. Their consequent importance in hemispheric defense is obvious. For these reasons I have taken advantage of the present opportunity to acquire them.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE, *September 3, 1940.*

NOTES EXCHANGED BETWEEN THE BRITISH AMBASSADOR AT WASHINGTON AND THE SECRETARY OF STATE

BRITISH EMBASSY
Washington, D. C., September 2, 1940

The Honorable CORDELL HULL,
Secretary of State of the United States,
Washington, D. C.

SIR: I have the honor under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to inform you that in view of the friendly and sympathetic interest of His Majesty's Government in the United Kingdom in the national security of the United States and their desire to strengthen the ability of the United States to coöperate effectively with the other nations of the Americas in the defence of the Western Hemi-

[2] Printed in this JOURNAL, p. 728.

sphere, His Majesty's Government will secure the grant to the Government of the United States, freely and without consideration, of the lease for immediate establishment and use of naval and air bases and facilities for entrance thereto and the operation and protection thereof, on the Avalon Peninsula and on the southern coast of Newfoundland, and on the east coast and on the Great Bay of Bermuda.

Furthermore, in view of the above and in view of the desire of the United States to acquire additional air and naval bases in the Caribbean and in British Guiana, and without endeavoring to place a monetary or commercial value upon the many tangible and intangible rights and properties involved, His Majesty's Government will make available to the United States for immediate establishment and use naval and air bases and facilities for entrance thereto and the operation and protection thereof, on the eastern side of the Bahamas, the southern coast of Jamaica, the western coast of St. Lucia, the west coast of Trinidad in the Gulf of Paria, in the island of Antigua and in British Guiana within fifty miles of Georgetown, in exchange for naval and military equipment and material which the United States Government will transfer to His Majesty's Government.

All the bases and facilities referred to in the preceding paragraphs will be leased to the United States for a period of ninety-nine years, free from all rent and charges other than such compensation to be mutually agreed on to be paid by the United States in order to compensate the owners of private property for loss by expropriation or damage arising out of the establishment of the bases and facilities in question.

His Majesty's Government, in the leases to be agreed upon, will grant to the United States for the period of the leases all the rights, power, and authority within the bases leased, and within the limits of the territorial waters and air spaces adjacent to or in the vicinity of such bases, necessary to provide access to and defence of such bases, and appropriate provisions for their control.

Without prejudice to the above-mentioned rights of the United States authorities and their jurisdiction within the leased areas, the adjustment and reconciliation between the jurisdiction of the authorities of the United States within these areas and the jurisdiction of the authorities of the territories in which these areas are situated, shall be determined by common agreement.

The exact location and bounds of the aforesaid bases, the necessary seaward, coast and antiaircraft defences, the location of sufficient military garrisons, stores, and other necessary auxiliary facilities shall be determined by common agreement.

His Majesty's Government are prepared to designate immediately experts to meet with experts of the United States for these purposes. Should these experts be unable to agree in any particular situation, except in the case of Newfoundland and Bermuda, the matter shall be settled by the Secretary

of State of the United States and His Majesty's Secretary of State for Foreign Affairs.

I have the honor to be, with the highest consideration, Sir,

Your most obedient, humble servant,

(Sgd.) LOTHIAN

DEPARTMENT OF STATE,
Washington, September 2, 1940

HIS EXCELLENCY THE RIGHT HONORABLE
THE MARQUESS OF LOTHIAN, C. H.,
British Ambassador.

EXCELLENCY: I have received your note of September 2, 1940, of which the text is as follows:

[Here follows the text of the foregoing note.]

I am directed by the President to reply to your note as follows:

The Government of the United States appreciates the declarations and the generous action of His Majesty's Government as contained in your communication which are destined to enhance the national security of the United States and greatly to strengthen its ability to coöperate effectively with the other nations of the Americas in the defense of the Western Hemisphere. It therefore gladly accepts the proposals.

The Government of the United States will immediately designate experts to meet with experts designated by His Majesty's Government to determine upon the exact location of the naval and air bases mentioned in your communication under acknowledgment.

In consideration of the declarations above quoted, the Government of the United States will immediately transfer to His Majesty's Government fifty United States Navy destroyers generally referred to as the twelve hundred-ton type.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL

NETHERLANDS — UNITED STATES

CONVENTION FOR ARBITRATION OF PAYMENT FOR MILITARY SUPPLIES[1]

Signed at Washington, March 13, 1938; ratifications exchanged August 2, 1938

WHEREAS, in November, 1917, the Government of the United States of America requisitioned certain military supplies of the Government of the Netherlands, for which it paid a sum not considered by the Government of the Netherlands to be the full amount to which it was entitled therefor, while the Government of the United States of America considers, on the contrary, that it has paid more than was due,

[1] U. S. Treaty Series, No. 935.

WHEREAS it has been found impossible to adjust the resulting differences of opinion by diplomacy,

WHEREAS the President of the United States of America and Her Majesty, the Queen of the Netherlands, are desirous of reaching an amicable settlement of their differences, by arbitration if necessary, and that a convention be concluded for that purpose, have named as their plenipotentiaries, that is to say:

The President of the United States of America:

Cordell Hull, Secretary of State of the United States of America, and

Her Majesty, the Queen of the Netherlands:

Jonkheer H. M. van Haersma de With, Envoy Extraordinary and Minister Plenipotentiary of the Netherlands to the United States of America,

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

First. Within six months from the date of the exchange of ratifications hereof the Agent for the Government of the Netherlands shall present to the Agent for the Government of the United States of America a memorial in which shall be fully set forth:

(a) the facts on which the Netherlands Government rests its claim against the Government of the United States of America,

(b) the amount of additional compensation demanded, the principal of which compensation shall in no event exceed the difference between the florins alleged to have been expended by the Netherlands Government and the amount in dollars received by it, leaving to the Arbitrator the question as to whether, in the event of an award, interest should be granted,

(c) an explanation of the grounds and theory on which the claim is predicated.

Such memorial shall be accompanied by all the evidence upon which the claim is considered to be based, it being clearly understood that no further evidence may be injected into the case either during the discussions mentioned in Article II below or during the possible adjudication of the claim, except as hereinafter provided.

Second. Within eight months from the date of receipt by the Agent for the Government of the United States of America of such memorial, he shall present to the Agent for the Government of the Netherlands an answer to the memorial, in which shall be fully set forth:

(a) the facts relied upon by the Government of the United States of America in defense of the claim of the Government of the Netherlands and the facts on which the Government of the United States of America rests any counterclaim,

(b) the amount of such counterclaim,

(c) an explanation of the grounds and theory on which the defense and any such counterclaim are predicated.

To such answer there shall be attached all the evidence upon which the defense of the claim and upon which the counterclaim are considered to be based, and no further evidence shall be injected into the case, either in support or defense, either during the stage of discussions mentioned in Article II below or during possible arbitration, except as hereinafter provided.

Third. With all issues of fact and law thus defined, the Agent for the Government of the Netherlands shall, within six months from the date of the receipt of the answer, file with the Agent for the Government of the United States of America a written brief containing all such factual and legal contentions as he may desire to make in support of the claim and in defense of the counterclaim. In such brief the Agent for the Netherlands Government, without being allowed to change the general grounds of the claim as stated in the memorial, may further explain such grounds in the light of the answer and the evidence filed therewith and he may file with such brief only such evidence as is strictly in refutation of the answer or of the evidence filed with the answer, but which does not lay the basis of any new grounds for the claim. With the brief there may be filed also an answer to the counterclaim, which answer shall be governed by paragraph "Second" above.

Fourth. Within six months from the date of the receipt of such brief the Agent for the Government of the United States of America shall file with the Agent for the Government of the Netherlands a reply brief containing all such factual and legal contentions as he may desire to make in defense of the claim and in support of the counterclaim. In such reply brief the Agent for the Government of the United States of America, without being allowed to change the general grounds of the defense of the claim or the general grounds of the counterclaim, may further explain such grounds in the light of the brief of the Government of the Netherlands, the answer to the counterclaim, and the evidence filed therewith, and he may file with such reply brief only such evidence as is strictly in refutation of the brief or the evidence filed therewith, but which does not lay the basis of any new grounds for defense of the claim or any new grounds for the counterclaim.

ARTICLE II

In the event that the two Governments shall be unable to agree upon a disposition of the claim and the counterclaim or upon any portions thereof within the six months next succeeding the delivery of the reply brief of the Government of the United States of America, the pleadings thus exchanged shall be referred to arbitration for the decision of any such unsettled questions, it being clearly understood, however, that in no event shall the issues of the claim or of the counterclaim, either factual or legal, or the contentions of either party, as herein submitted to diplomatic discussion, be changed

in character, or the written record above described augmented in the event the matter is so referred to arbitration.

ARTICLE III

The issues to be decided shall be those formulated by the pleadings exchanged in pursuance of Article I hereof, or such of those issues as shall not have been previously settled by agreement of the two Governments.

The Arbitrator shall decide such issues in conformity with applicable law.

ARTICLE IV

The arbitral tribunal shall consist of a sole Arbitrator, to be selected by mutual agreement of the two Governments, who shall be a jurist of repute, familiar with the English language, and who shall not be a national of the Netherlands or of the United States of America.

ARTICLE V

Within thirty days from the termination of the period specified in Article II above, if the diplomatic negotiations referred to therein shall not have resulted in a full settlement of the claim and counterclaim, the pleadings provided for in Article I above shall be delivered to the Arbitrator by means of a joint communication of the two Agents.

ARTICLE VI

As soon as possible after the date of the receipt of the above-mentioned pleadings by the Arbitrator, and not later than four months from that date, he shall convene the parties at a place to be determined by the two Governments for the purpose of hearing such oral arguments by Agents or counsel, or both, for each Government, as they may desire to make. The conduct of the oral proceedings shall be under the control of the Arbitrator. Authentic minutes of the meetings shall be kept by a secretary, to be designated by the Arbitrator, and shall be signed by the Arbitrator and the secretary.

The periods of time mentioned in Articles V and VI hereof may be extended by mutual agreement of the two Governments.

ARTICLE VII

The Arbitrator shall be obligated to render his decision within three months from the date on which the oral arguments close, unless, upon the request of the Arbitrator, the two Governments agree to extend that period.

The decision of the Arbitrator shall be rendered in two signed copies, one of which shall be sent to each Government. It shall state the grounds of the decision and shall be in the English language.

The language of the pleadings and oral proceedings shall be English. All evidence submitted in any language other than English shall be accompanied by a full and correct translation in the English language.

The decision of the Arbitrator shall be accepted as final and binding upon the two Governments.

ARTICLE VIII

Each Government shall pay the expenses of the presentation and conduct of its own case before the Arbitrator; all joint expenses, including the honorarium for the Arbitrator, to be borne by the two Governments in equal proportions.

ARTICLE IX

This convention shall be ratified by the high contracting parties and shall take effect immediately upon the exchange of ratifications, which shall take place at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed this convention and have hereunto affixed their seals.

Done in duplicate at Washington, this eighteenth day of March, 1938.

[SEAL] CORDELL HULL
[SEAL] H. M. VAN HAERSMA DE WITH

EIGHTH INTERNATIONAL CONFERENCE OF AMERICAN STATES

Lima, Peru, December 9–27, 1938

PRINCIPAL TEXTS INVOLVING INTERNATIONAL LAW[1]

II

REDUCTION OF BARRIERS TO INTERNATIONAL TRADE

CONSIDERING:

That the full economic development of nations requires the greatest possible volume of mutually profitable international trade;

That such a volume of trade cannot be developed while excessive barriers exist whether in the form of (a) unreasonably high tariffs; (b) quotas, licenses, exchange controls, and other types of quantitative restriction; (c) methods of administering commercial, exchange and monetary policies which impair the maintenance of complete equality of commercial opportunity as between all foreign suppliers;

That all such obstacles to trade create unemployment, lower standards of living, limit opportunities for economic advancement, obstruct the fulfillment of broad social programs, divert trade into uneconomic channels and tend to create international friction and ill will; and

That the American Republics have at previous conferences expressed their support of measures intended to halt further increases in, and to bring about the persistent elimination of, unreasonable and excessive barriers of all kinds to international trade,

The Eighth International Conference of American States

[1] Reprinted from the official text of the Final Act, printed by Torres Aguirre, Lima, Peru, 1938; also in International Conciliation, No. 349, April, 1939. For a brief summary of other texts, see current note in this JOURNAL, p. 714.

RESOLVES:

1. To reaffirm the declarations of the Seventh International Conference of American States at Montevideo and the Conference for the Maintenance of Peace at Buenos Aires calling upon the American Governments to reduce, to the greatest extent found possible, all existing types of restrictions upon international trade.

2. To endorse the negotiation of trade agreements, embodying the principle of equality of treatment, as the most beneficial and effective method of extending and facilitating international trade; and

RECOMMENDS:

1. That the Governments of the American Republics substitute, as rapidly as possible, reasonable tariffs in lieu of other forms of trade restrictions, inasmuch as experience has shown that such tariffs tend in general to be less restrictive and more susceptible of administration on the basis of most-favored-nation treatment than are any of the other forms of control over trade and payments.

2. That they reduce, by mutual agreement or otherwise, administrative and technical formalities in connection with the importation of goods to the minimum required for the adequate enforcement of the customs laws.

3. That they proceed, as vigorously as possible, with the negotiation of trade agreements embodying the principle of non-discrimination.

4. That they make every effort, by whatever appropriate means are open to each of them, to encourage other nations to adopt, in the conduct of their commercial policies, the methods and principles recommended above. (Approved December 16, 1938.)

VII

UNIFORMITY OF COMMERCIAL AND CIVIL LAW

WHEREAS:

It is an aspiration of America to attain uniformity in the positive rules of private law of the continent, in codified form;

Notwithstanding the difficulties that exist in giving complete effect to this aspiration, it is possible as a practical matter to consider the possible unification at least of some part of the civil and commercial legislation of the different countries of America;

As civil and commercial law constitute two branches of private law, it is advisable to entrust the work of unification of both to a single organization, in order to assure a uniform plan and the necessary correlation between the various parts of the entire plan;

The special nature of the subject makes advisable the establishment of a more simple and more autonomous agency of unification than the Pan American codification groups already established, without prejudice to the

intervention of the latter in a later phase of the work, and that the participation of technical institutions of the different countries is also desirable; and

In the work of unification the two great juridical systems of the Continent, the Saxon and the Latin, should be represented,

The Eighth International Conference of American States

RESOLVES:

1. That there be created, with its seat at Lima, a Permanent Committee of Jurists, to study and prepare the unification of the Civil and Commercial Laws of America.

2. That the Committee shall be composed of three members, of whom one shall be designated by the Government of the United States and the two remaining members determined by lot by the Rector of the University of San Marcos from a list of jurists made up by the designation of one member by each of the twenty Latin American governments. Each government shall send to the Rector of the University, prior to March 1, 1939, the name of the American jurist, national or foreign, whom it may designate for the purposes of this article.

3. That once the lots have been drawn, the Rector of the University of San Marcos shall determine, also by lot, the order of precedence of the other members on the list in order that, in the event of any vacancy occurring among the Latin members of the Committee, it may be filled automatically. If a vacancy should occur in the position corresponding to the member representing the Anglo-Saxon system, the Government of the United States shall name the new member directly.

4. That the Committee referred to in Article 1 may carry on its work by means of correspondence when, in its opinion, a personal meeting of the members in Lima is not necessary.

5. The Permanent Committee of Jurists having met, it shall study and agree upon a plan for carrying on the work of unification of American civil and commercial legislation, prior to July 30, 1939, indicating the rules or principles most adequate to its work and determining the subjects on which, in its judgment, it can begin the work of unification. The result of this meeting shall be communicated to the Faculty of Law of the University of San Marcos in Lima.

6. That the Faculty of Law of the University of San Marcos in Lima shall be the central and motivating organ of the work of unification. In the discharge of this duty it shall communicate directly with the Faculties of Law of the Latin American universities and with the universities or technical institutions which the Government of the United States may designate for this purpose.

7. That the Faculty of Law of San Marcos shall send to the other Faculties of Law of the universities and institutions mentioned in the preceding article, the plan or project of the Permanent Committee referred to in Article 5, in

order that they may express their opinion thereon and transmit their suggestions, based on their knowledge of local legislation and the juridical background peculiar to the respective country. Whenever possible, these opinions shall be sent to the University of San Marcos within a period of not more than six months.

With respect to the United States, the universities or institutions that may be named by that Government shall serve as a central agency for the opinions on unification which may be expressed by the institutions and universities of the different States of the Union, the collaboration of which should be requested.

8. That upon receipt of the reports of the different Faculties of Law of the American countries, or of the majority of them, the Faculty of Law of the University of San Marcos shall place them at the disposal of the Permanent Committee of Jurists, which shall study them and proceed to draft the uniform project of law or laws which in their opinion may be practicable. This project shall be again submitted to the Law Faculties or institutions mentioned, for revision. On the basis of the observations thus received, the Permanent Committee will prepare the definitive model project.

9. That the Faculty of Law of the University of San Marcos shall send the model projects which may have been prepared to the Pan American Union for distribution among the Governments, in order that, if they deem it advisable, the projects may be submitted to the consideration of the respective legislative bodies for enactment into law.

10. That periodically the Permanent Committee of Jurists shall undertake investigations of new subjects of civil and commercial legislation susceptible of unification, and shall repeat the inquiries provided for in Articles 5 and 6 of this resolution. In turn, the Faculties of Law may send to the Permanent Committee on their own initiative, through the intermediary of the University of San Marcos, and whenever they deem it advisable, suggestions of new points of private legislation which in their judgment may be susceptible of unification.

11. That all the reports which the Committee may prepare and the results at which it may arrive, shall be filed and indexed by the Pan American Union, in order to prepare, in time, the elements of American civil and commercial codes.

12. To recommend to the universities of the Americas the establishment in their Faculties of Law of chairs on comparative civil and commercial legislation, as an effective means of disseminating reciprocal knowledge of the civil and commercial laws of each country, and of promoting their gradual approximation and uniformity.

13. That once organized, the Permanent Committee shall prepare its regulations and take the measures which it may consider necessary for the most effective compliance with this resolution.

(Approved December 21, 1938.)

XVI

Defense of Human Rights

Whereas:

Although the pacific and harmonious existence of the countries of the Americas, together with their conception of international relations, makes it unnecessary for them to adopt rules of warfare, America cannot be indifferent, from a humane point of view, to the sufferings caused by war, and to the desire to diminish them;

The waging of warfare on other continents is leading to the use of methods contrary to practices and regulations recognized by international law and by humane sentiments, such as the aerial bombardment of undefended cities and of non-combatant populations, resulting in the destruction of human lives and of works of art or other objects outside the scope of military operations; and

America, having received as part of its present foundation, cultural and spiritual elements from other continents, and contributing as it does to human welfare and culture, cannot, therefore, be indifferent to the destruction of any part of the intellectual and artistic legacy bequeathed by other epochs or created for it by this one,

The Eighth International Conference of American States

Resolves:

That the American Republics, which do not recognize war as a legitimate means of settling national or international controversies, express the hope that when recourse is had to war in any other region of the world, respect be given to those human rights not necessarily involved in the conflict, to humanitarian sentiments, and to the spiritual and material inheritance of civilization. (Approved December 21, 1938.)

XVII

Methods for the Codification of International Law

Whereas:

It is necessary to modify the present system for the gradual and progressive codification of international law on this Continent, so that practical and effective results may be obtained;

It is indispensable, if this objective is to be achieved, to coördinate the action of the agencies now entrusted with this task and to establish precisely the duties which each is to perform; and

It is desirable to have the International Commission or Conference of American Jurists function at the last stage of the procedure, inasmuch as the task of codification should be undertaken by jurists who are specialists in the work,

The Eighth International Conference of American States

RESOLVES:

1. The codification of international law shall be gradually and progressively accomplished through existing agencies, which are:

(a) The national committees in each American country;

(b) The three permanent committees, established in Rio de Janeiro, Montevideo and Habana, respectively;

(c) The Committee of Experts, at Washington; and

(d) The International Commission of American Jurists, which in the future shall be known as the International Conference of American Jurists.

2. The national committees shall undertake, in their respective countries, doctrinal studies in international law and in comparative legislation designed to advance the work of codification, transmitting the results thereof to the Permanent Committees of Rio de Janeiro, Montevideo and Habana in the form of preliminary drafts, with explanatory summaries of their reasoning; and, in this field, the national committees shall serve as consultative agencies for the respective governments.

3. The permanent committees shall continue to consider respectively: the Committee of Rio de Janeiro, public international law; the Committee of Montevideo, private international law; and the Committee of Habana, comparative legislation and the unification of legislation.

Their functions shall be the following:

(a) To propose to the American governments, through the national committees, either on their own initiative or at the suggestion of one or several of the national committees, the Committee of Experts, or at the request of any American government, the topics which may appear to them susceptible of new attempts at codification on this continent or which may serve as the basis for uniformity of legislation;

(b) To request the opinion of the aforementioned governments relative to these questions, and, in the event of receiving, or of having already received, favorable replies from at least two thirds of those governments, to send to all of them a questionnaire indicating the points, with respect to each matter considered, which might eventually constitute bases for conventions, declarations or uniform laws;

(c) To prepare, together with the replies received, the bases of such conventions, declarations or uniform laws; and

(d) To communicate these bases, with all antecedent details on each subject, to the Pan American Union, in order that it may transmit them to the Committee of Experts at Washington.

4. Each of the permanent committees shall be composed of as many members as the government of the country in which it has its seat may consider necessary; nevertheless, six of its members shall be designated by the governments of the other American States, in order that all the American Republics shall be represented on the three committees.

The designation of the eighteen members who are not nationals of the

countries where the committees have their seats, shall be made in accordance with the procedure which the Pan American Union shall establish.

The present permanent committees shall continue to function until the foregoing procedure is established.

The permanent committees shall be presided over by one of the members who is a national of the country where the committee is located, and the presence of six members shall constitute a quorum.

5. The Committee of Experts, after receiving, through the Pan American Union, the material from each of the permanent committees, shall make a technical examination of each subject, and, on the basis of the material furnished by those committees, it shall prepare adequate drafts. Those drafts, properly supported, shall be transmitted to the Pan American Union, which shall transmit them to the American governments.

6. The Committee of Experts shall be composed of nine members, professors or jurists specializing in international law. They shall be elected in the manner indicated in paragraph 3 of the resolution on Methods of Codification adopted by the Seventh International Conference of American States, on December 24, 1933.

7. The two new members of the Committee of Experts shall be elected in the manner indicated in the aforementioned resolution.

8. The Committee of Experts may meet and work with a majority of its members present, provided that representatives of the two great systems of jurisprudence in the Americas be in attendance at its meetings.

9. At the summons of its Chairman, it shall regularly meet every two years, and it shall hold special meetings whenever the American governments, through the Governing Board of the Pan American Union, shall consider such a meeting desirable.

10. The members of the Committee of Experts shall be elected for a period of five years.

The present members and the two new members referred to in paragraph seven of the present resolution shall hold office until April 5, 1942.

11. The International Conference of American Jurists shall be composed of jurists delegated with plenipotentiary powers, designated by the American governments. Each government shall have the power to name as many as two delegates to each meeting, together with as many advisers as it may deem necessary; each delegation, however, shall have the right to but one vote.

12. The said Conference shall have as its function the revision, coördination, approval, modification or rejection of the drafts prepared by the Committee of Experts, and it shall meet when convoked by the Governing Board of the Pan American Union, always provided there are sufficient matters for its consideration to justify a meeting.

13. The next meeting of the International Conference of American Jurists shall be held in the city of Rio de Janeiro, and succeeding meetings shall be held at such places as the Conference itself may select.

14. The conventions and other instruments approved and signed at the International Conference of American Jurists shall be deposited with the Pan American Union, which shall transmit certified copies thereof to all the American governments for appropriate action.

15. The national committees as well as the permanent committees shall receive and study, to whatever extent they may judge expedient, the suggestions and drafts which private scientific institutions may submit for their consideration. (Approved December 21, 1938.)

XXVI

Non-Recognition of the Acquisition of Territory by Force

Whereas:

The maintenance of peace and the preservation of the juridical order between the nations of America demand the adoption of a common and solidary attitude, already recognized by the Anti-War Treaty of Non-Aggression and Conciliation;

It is necessary to define the scope of the continental doctrine of the non-recognition of the conquest or acquisition of territory by force;

The geographical, historical and political conditions of the American nations preclude, on this continent, all territorial acquisitions by force; and

It is desirable to coördinate, reiterate and strengthen the declarations and statements contained in the treaty of July 15, 1826, signed at the Congress of Panama; and in the treaties adopted at the Inter-American Congresses of Lima of 1847 and 1864; in the resolutions of April 18, 1890, approved at the First International Conference of American States; in the resolutions of February 18, 1928, adopted at the Sixth International Conference of American States; in the declaration of August 3, 1932, signed at Washington; in the Anti-War Pact signed at Rio de Janeiro on October 10, 1933; in the Convention on Rights and Duties of States, signed at Montevideo on December 26, 1933, at the Seventh International Conference of American States; and in the instruments approved on December 23, 1936, at the Inter-American Conference for the Maintenance of Peace, held at Buenos Aires,

The Eighth International Conference of American States

Declares:

That it reiterates, as a fundamental principle of the Public Law of America, that the occupation or acquisition of territory or any other modification or territorial or boundary arrangement obtained through conquest by force or by non-pacific means shall not be valid or have legal effect.

The pledge of non-recognition of situations arising from the foregoing conditions is an obligation which cannot be avoided either unilaterally or collectively. (Approved December 22, 1938.)

XXVII

Foreign Minorities

Whereas:

The system of protection of ethnical, language, or religious minorities cannot have any application whatsoever in America, where the conditions which characterize the group known as minorities do not exist,

The Eighth International Conference of American States

Declares:

That residents who, according to domestic law, are considered aliens cannot claim collectively the condition of minorities; individually, however, they will continue to enjoy the rights to which they are entitled.

(Approved December 23, 1938.)

XXVIII

Political Activities of Foreigners

Whereas:

Aliens residing in an American State are subject to domestic jurisdiction and any official action, therefore, on the part of the Governments of the countries of which such aliens are nationals, tending to interfere with the internal affairs of the country in order to regulate the status or activities of those aliens, is incompatible with the sovereignty of such State,

The Eighth International Conference of American States

Resolves:

To recommend to the Governments of the American Republics that they consider the desirability of adopting measures prohibiting the collective exercise within their territory, by resident aliens, of political rights invested in such aliens by the laws of their respective countries.

(Approved December 23, 1938.)

XXIX

Persecution for Racial or Religious Motives

The Republics represented at the Eighth International Conference of American States

Declare:

1. That, in accordance with the fundamental principle of equality before the Law, any persecution on account of racial or religious motives which makes it impossible for a group of human beings to live decently, is contrary to the political and juridical systems of America.

2. That the democratic conception of the State guarantees to all individuals

the conditions essential for carrying on their legitimate activities with self-respect.

3. That they will always apply these principles of human solidarity.

(Approved December 23, 1938.)

CVII

Improvement in the Procedure of Consultation

Whereas:

In addition to the cases susceptible of originating consultation between the American Republics, contemplated in the resolutions adopted by the Conference for the Maintenance of Peace in 1936, it is mutually desirable to extend the procedure of voluntary coördination to other aspects of continental solidarity; and

Although the form and development of consultation will depend in each case upon the nature of the event which gives rise to it and upon its greater or lesser importance or urgency, this consultation must take place with the attendance of the Ministers of Foreign Affairs whenever personal contact is required,

The Eighth International Conference of American States

Declares:

1. That the procedure of consultation, provided for in the conventions and resolutions adopted by the Inter-American Conference for the Maintenance of Peace, may also be applied, on the initiative of one or more Governments and with the previous agreement of the others, to any economic, cultural or other question which, by reason of its importance, justifies this procedure and in the examination or solution of which the American States may have a common interest

2. That in those cases where the consultation requires personal contact, it shall take place with the attendance of the Ministers of Foreign Affairs or of their specially authorized representatives. (Approved December 24, 1938.)

CIX

Declaration of the Principles of the Solidarity of America

The Eighth International Conference of American States

Considering:

That the peoples of America have achieved spiritual unity through the similarity of their republican institutions, their unshakable will for peace, their profound sentiment of humanity and tolerance, and through their absolute adherence to the principles of international law, of the equal sovereignty of States and of individual liberty without religious or racial prejudices;

That on the basis of such principles and will, they seek and defend the

peace of the continent and work together in the cause of universal concord;

That respect for the personality, sovereignty, and independence of each American State constitutes the essence of international order sustained by continental solidarity, which historically has been expressed and sustained by declarations and treaties in force; and

That the Inter-American Conference for the Maintenance of Peace, held at Buenos Aires, approved on December 21, 1936, the Declaration of the Principles of Inter-American Solidarity and Coöperation, and approved, on December 23, 1936, the Protocol of Non-intervention,

The Governments of the American States

DECLARE:

First. That they reaffirm their continental solidarity and their purpose to collaborate in the maintenance of the principles upon which the said solidarity is based.

Second. That faithful to the above-mentioned principles and to their absolute sovereignty, they reaffirm their decision to maintain them and to defend them against all foreign intervention or activity that may threaten them.

Third. And in case the peace, security or territorial integrity of any American Republic is thus threatened by acts of any nature that may impair them, they proclaim their common concern and their determination to make effective their solidarity, coördinating their respective sovereign wills by means of the procedure of consultation, established by conventions in force and by declarations of the Inter-American Conferences, using the measures which in each case the circumstances may make advisable. It is understood that the Governments of the American Republics will act independently in their individual capacity, recognizing fully their juridical equality as sovereign States.

Fourth. That in order to facilitate the consultations established in this and other American peace instruments the Ministers for Foreign Affairs of the American Republics, when deemed desirable and at the initiative of any one of them, will meet in their several capitals by rotation and without protocolary character. Each Government may, under special circumstances or for special reasons, designate a representative as a substitute for its Minister for Foreign Affairs.

Fifth. This Declaration shall be known as the "Declaration of Lima."

(Approved December 24, 1938.)

CX

DECLARATION OF AMERICAN PRINCIPLES

WHEREAS:

The need for keeping alive the fundamental principles of relations among nations was never greater than today; and

Each State is interested in the preservation of world order under law, in peace with justice, and in the social and economic welfare of mankind,

The Governments of the American Republics

RESOLVE:

To proclaim, support and recommend, once again, the following principles, as essential to the achievement of the aforesaid objectives:

1. The intervention of any State in the internal or external affairs of another is inadmissible.

2. All differences of an international character should be settled by peaceful means.

3. The use of force as an instrument of national or international policy is proscribed.

4. Relations between States should be governed by the precepts of international law.

5. Respect for and the faithful observance of treaties constitute the indispensable rule for the development of peaceful relations between States, and treaties can only be revised by agreement of the contracting parties.

6. Peaceful collaboration between representatives of the various States and the development of intellectual interchange among their peoples is conducive to an understanding by each of the problems of the other as well as of problems common to all, and makes more readily possible the peaceful adjustment of international controversies.

7. Economic reconstruction contributes to national and international well-being, as well as to peace among nations.

8. International coöperation is a necessary condition to the maintenance of the aforementioned principles. (Approved December 24, 1938.)

CONVENTION REGARDING ABOLITION OF CAPITULATIONS IN EGYPT [1]

Signed at Montreux, May 8, 1937; in force Oct. 15, 1937 [2]

His Majesty the King of Egypt, of the one part,

and

The President of the United States of America; His Majesty the King of

[1] U. S. Treaty Series, No. 939; G. B. Treaty Series, No. 55 (1937).

[2] See Art. 15. Instruments of ratification were deposited at Cairo as follows: By Egypt, Sept. 4, 1937; by Belgium, Sept. 11, 1937; by Italy, Sept. 25, 1937; by Greece, Sept. 25, 1937; by Sweden, Sept. 28, 1937; by Great Britain and Northern Ireland, Oct. 12, 1937; by Denmark, Oct. 13, 1937; by The Netherlands, Jan. 22, 1938; by New Zealand, March 23, 1938; by Norway, April 13, 1938; by Australia, April 27, 1938; by India, May 19, 1938; by the Union of South Africa, May 19, 1938; by Spain, June 2, 1938; by the United States, Aug. 29, 1938; and by France Feb. 8, 1939. Convention accepted in advance by Canada in letter of April 14, 1937, from the Canadian High Commissioner in London to the President of the Montreux Conference. (U. S. Treaty Series, No. 939, p. 92.)

the Belgians; His Majesty the King of Great Britain, Ireland and the British Dominions Beyond the Seas, Emperor of India; His Majesty the King of Denmark; the President of the Spanish Republic; the President of the French Republic; His Majesty the King of the Hellenes; His Majesty the King of Italy, Emperor of Ethiopia; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Portuguese Republic; His Majesty the King of Sweden, of the other part;

Whereas the régime of Capitulations heretofore in force in Egypt is no longer in harmony with the new situation to which that country has attained through the progress of its institutions and whereas it should in consequence be brought to an end;

Considering that, following upon the abolition by common agreement of the said régime, there should be established between them relations based on respect for the independence and sovereignty of states and on ordinary international law;

Prompted by the sincere desire to facilitate the most extensive and friendly coöperation between them;

Have decided to conclude a convention for that purpose and have appointed as their plenipotentiaries:

The President of the United States of America:

Mr. Bert Fish, Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Cairo;

His Majesty the King of the Belgians:

M. Pierre Forthomme, Grand Cross of the Order of the Crown, Grand Officer of the Order of Leopold, former Minister, Envoy Extraordinary and Minister Plenipotentiary;

His Majesty the King of Great Britain, Ireland and the British Dominions Beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland:

Captain the Right Honorable David Euan Wallace, M.C., M.P., a Parliamentary Under-Secretary of State for Foreign Affairs, a Parliamentary Secretary to the Board of Trade, Secretary of the Department of Overseas Trade;

Mr. David Victor Kelly, C.M.G., M.C., Counsellor in His Britannic Majesty's Embassy at Cairo;

Mr. William Eric Beckett, C.M.G., Second Legal Adviser to the Foreign Office;

For the Commonwealth of Australia:

Captain the Right Honorable David Euan Wallace, M.C., M.P.;

For the Dominion of New Zealand:

Captain the Right Honorable David Euan Wallace, M.C., M.P.;

For the Union of South Africa:

Dr. Stefanus François Naudé Gie, Minister of the Union of South Africa in Berlin;

Mr. Harry Thomson Andrews, Permanent Delegate to the League of Nations;

For the Irish Free State:

Mr. Francis T. Cremins, Permanent Delegate to the League of Nations;

For India:

Captain the Right Honorable David Euan Wallace, M.C., M.P.;

His Majesty the King of Denmark:

M. Niels Peter Arnstedt, Envoy Extraordinary and Minister Plenipotentiary at Cairo;

M. Niels Vilhelm Boeg, Member of the Court of Appeal at Copenhagen, former Judge of the Mixed Tribunals in Egypt, former President of the Mixed Greco-Turkish Arbitration Tribunal;

His Majesty the King of Egypt:

Mustapha El-Nahas Pasha, President of the Council of Ministers, Minister of the Interior and of Public Health;

Dr. Ahmed Maher, President of the Chamber of Deputies;

Wacyf Boutros Ghali Pasha, Minister for Foreign Affairs;

Makram Ebeid Pasha, Minister of Finance;

Abdel Hamid Badaoui Pasha, President of the *Comité du Contentieux de l'Etat;*

The President of the Spanish Republic:

M. Antonio Fabra Ribas, Envoy Extraordinary and Minister Plenipotentiary at Berne;

M. Mariano Gomez, President of the Supreme Court of Justice; former Rector of the University of Valencia;

The President of the French Republic:

M. François de Tessan, Deputy, Under-Secretary of State in the Department of the President of the Council;

M. Max Hymans, Deputy, former President of the Commission for Customs and Commercial Conventions;

His Majesty the King of the Hellenes:

M. Nicolas Politis, Envoy Extraordinary and Minister Plenipotentiary of Greece in Paris, former Minister for Foreign Affairs;

M. Georges Roussos, Envoy Extraordinary and Minister Plenipotentiary, former Minister for Foreign Affairs;

M. Constantin Vryakos, Envoy Extraordinary and Minister Plenipotentiary, former Minister of Justice;

M. Constantin Sakellaropoulo, Envoy Extraordinary and Minister Plenipotentiary, Director of Political Affairs in the Minister of Foreign Affairs;

His Majesty the King of Italy, Emperor of Ethiopia:

Count Luigi Aldrovandi Marescotti di Viano, Ambassador of His Majesty the King of Italy, Emperor of Ethiopia;

M. Salvatore Messina, President of Section in the Court of Cassation;

M. Piero Parini, Minister Plenipotentiary, Director-General of Italians abroad;

M. Pellegrino Ghigi, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Italy, Emperor of Ethiopia, at Cairo;

His Majesty the King of Norway:

M. Michael Hansson, former President of the Egyptian Mixed Court of Appeal, Norwegian Member of the Permanent Court of Arbitration at The Hague, President of the Nansen International Office for Refugees;

Her Majesty the Queen of the Netherlands:

M. W. C. Beucker Andreae, Head of the Directorate of Legal Affairs in the Ministry of Foreign Affairs;

M. le Chevalier J. J. B. Bosch de Rosenthal, Chargé d'Affaires of the Netherlands at Cairo;

Count W. F. L. de Bylandt, Counsellor in the Netherlands Legation in Paris;

The President of the Portuguese Republic:

Dr. J. Caeiro Da Matta, former Minister for Foreign Affairs, Professor and Rector of the University of Lisbon;

His Majesty the King of Sweden:

M. K. K. F. Malmar, Director of the Legal Division of the Ministry of Foreign Affairs;

Who, having deposited their full powers, found in good and due form, have agreed on the following provisions:

ARTICLE 1

The high contracting parties declare that they agree, each in so far as he is concerned, to the complete abolition in all respects of Capitulations in Egypt.

ARTICLE 2

Subject to the application of the principles of international law, foreigners shall be subject to Egyptian legislation in criminal, civil, commercial, administrative, fiscal and other matters.

It is understood that the legislation to which foreigners will be subject will not be inconsistent with the principles generally adopted in modern legisla-

tion and will not, with particular relation to legislation of a fiscal nature, entail any discrimination against foreigners or against companies incorporated in accordance with Egyptian law wherein foreigners are substantially interested.

The immediately preceding paragraph, in so far as it does not constitute a recognized rule of international law, shall apply only during the transition period.

ARTICLE 3

The Mixed Court of Appeal and the Mixed Tribunals now existing shall be maintained until October 14, 1949.

As from October 15, 1937, they shall be governed by an Egyptian law establishing the *Règlement d'organisation judiciaire* the text of which is annexed to the present convention.[3]

On the date mentioned in paragraph 1 above, all cases pending before the Mixed Tribunals shall be remitted, at the stage which they have then reached and without involving the parties in the payment of any fees, to the national tribunals to be continued therein until they are finally disposed of.

The period from October 15, 1937, to October 14, 1949, shall be known as "the transition period."

ARTICLE 4

The judges, officials and staff of the Mixed Tribunals and of the Mixed Parquet, who are employed there on October 14, 1937, shall be retained in office.

ARTICLE 5

The rules to be applied by the Egyptian national courts in regard to third party actions shall be the same as those prescribed for the Mixed Tribunals in Article 37 of the *Règlement d'organisation judiciaire mixte.*

ARTICLE 6

The national courts shall also have jurisdiction in respect of the prosecution of persons of any nationality, accused as principals or accomplices of any of the crimes and misdemeanors referred to in Article 45 of the *Règlement d'organisation judiciaire mixte* involving judges and judicial officials of those courts or their judgments or orders or of bankruptcy offences where the bankruptcy proceedings have taken place before the said courts.

ARTICLE 7

A change in the nationality of one of the parties in the course of proceedings before the national courts shall not affect the competence of the court before which the proceedings have been brought.

[3] Translation, *post*, p. 209.

ARTICLE 8

Subject to the provisions of Article 9, no civil or commercial action, no action in matters of personal status and no criminal cause shall be instituted before any Consular Court in Egypt after October 15, 1937.

Proceedings already brought prior to the above date in any such courts shall be continued before them until finally disposed of, unless they are remitted to the Mixed Tribunals under the conditions specified in Article 53 of the *Règlement d'organisation judiciaire.*

ARTICLE 9

Any of the high contracting parties who possess at present Consular Courts in Egypt, may retain such courts for the purposes of jurisdiction in matters of personal status in all cases in which the law applicable is the national law of the high contracting party concerned.

Any such high contracting party who desires to exercise the above right shall notify the Royal Egyptian Government to this effect at the time of the deposit of his instrument of ratification of the present convention.[4]

At any time during the transition period any high contracting party may make a declaration renouncing his consular jurisdiction. Such declaration shall take effect as from October 15 following the date on which it is made.[5] No new proceeding shall be entertained after the date on which a renunciation of jurisdiction takes effect, but any proceeding already instituted may be continued until finally disposed of.

No Consular Court shall be maintained after October 14, 1949. On that date all proceedings pending before the said Consular Courts shall be remitted to the national tribunals at the stage they have then reached.

ARTICLE 10

In matters of personal status, the jurisdiction which is competent shall be determined by the law to be applied.

The expression "personal status" refers to the matters specified in Article 28 of the *Règlement d'organisation judiciaire mixte.*

The law to be applied shall be ascertained in conformity with the rules set out in Articles 29 and 30 of the said *Règlement.*

ARTICLE 11

Without prejudice to the exceptions recognized by international law, foreign consuls shall be subject to the jurisdiction of the Mixed Tribunals. In particular, they may not be prosecuted in respect of acts performed by them in the performance of their official duties.

[4] Notification in accordance with this article accompanied the deposit of ratification by the United States.

[5] American extraterritorial jurisdiction, except that retained under Art. 9, *ante*, suspended by Proclamation of the President, No. 2255, Oct. 9, 1937.

Subject to reciprocity, they shall exercise the powers customarily granted to consuls as regards registration in matters of personal status, as regards contracts of marriage and other notarial acts, inheritance, the representation before the courts of the interests of their absent nationals and maritime navigation, and shall enjoy personal immunity.

Until consular conventions are concluded, and in any case during a period of three years as from the date of the signature of the present convention, consuls shall continue to enjoy the immunities which they possess at present in respect of consular premises and in the matter of taxes, customs duties and other public dues.

ARTICLE 12

The high contracting parties undertake to maintain in Egypt, during the transition period, all the judicial records of their Consular Courts.

These records shall be open for inspection by the courts in Egypt whenever such inspection is required in connection with a case coming within their jurisdiction; certified copies of such records shall be furnished upon the request of any such court.

ARTICLE 13

Any dispute between the high contracting parties relating to the interpretation or application of the provisions of the present convention, which they are unable to settle by diplomatic means, shall, on the application of one of the parties to the dispute, be submitted to the Permanent Court of International Justice.

If, however, there is at present in force between any of the high contracting parties and His Majesty the King of Egypt a treaty of arbitration providing for another tribunal, this tribunal shall, for the duration of this convention, be substituted for the Permanent Court of International Justice for the purposes of this article, even though such treaty of arbitration may have ceased to exist for other purposes.

ARTICLE 14

The present convention, with the exception of the annex referred to in Article 3, has been drawn up in a single copy in the English and French languages. Both texts shall be equally authentic for the purposes of its interpretation.

In the case of the annex aforesaid the French text alone shall be authentic.[6]

ARTICLE 15

The present convention shall be ratified and the instruments of ratification shall be deposited as soon as possible at Cairo. The Royal Egyptian Government shall undertake the registration of the convention with the Secretariat of the League of Nations.

[6] Translation, *post*, p. 209.

The Royal Egyptian Government shall inform the Governments of the high contracting parties and the Secretary-General of the League of Nations of the deposit of each ratification.

The present convention shall come into force on October 15, 1937, if three instruments of ratification have been deposited. It shall not however come into force in respect of the other signatories before the date of the deposit of their respective instruments of ratification.

In faith whereof the above-mentioned plenipotentiaries have signed the present convention.

Done at Montreux, on the eighth day of May, one thousand nine hundred and thirty-seven, in a single copy, bearing the seals of the plenipotentiaries, which shall be deposited in the archives of the Royal Egyptian Government and of which certified true copies shall be delivered to the Governments of the signatory Powers.

[SEAL]	BERT FISH	[SEAL]	A. FABRA RIBAS
[SEAL]	P. FORTHOMME	[SEAL]	MARIANO GOMEZ
[SEAL]	DAVID EUAN WALLACE	[SEAL]	F. DE TESSAN
[SEAL]	DAVID VICTOR KELLY	[SEAL]	HYMANS
[SEAL]	WILLIAM ERIC BECKETT	[SEAL]	N. POLITIS
[SEAL]	DAVID EUAN WALLACE	[SEAL]	G. ROUSSOS
[SEAL]	DAVID EUAN WALLACE	[SEAL]	C. VRYAKOS
[SEAL]	S. F. N. GIE	[SEAL]	C. M. SAKELLAROPOULO
[SEAL]	H. T. ANDREWS	[SEAL]	L. ALDROVANDI
[SEAL]	F. T. CREMINS	[SEAL]	SALVATORE MESSINA
[SEAL]	DAVID EUAN WALLACE	[SEAL]	PIERO PARINI
[SEAL]	N. P. ARNSTEDT	[SEAL]	GHIGI
[SEAL]	N. V. BOEG	[SEAL]	MICHAËL HANSSON
[SEAL]	MOUSTAPHA EL-NAHAS	[SEAL]	W. C. BEUCKER ANDREAE
[SEAL]	A. MAHER	[SEAL]	J. BOSCH DE ROSENTHAL
[SEAL]	WACYF BOUTROS GHALI	[SEAL]	W. DE BYLANDT
[SEAL]	MAKRAM EBEID	[SEAL]	J. CAEIRO DA MATTA
[SEAL]	A. BADAOUI	[SEAL]	MALMAR

PROTOCOL

On signing the Convention Regarding the Abolition of the Capitulations in Egypt bearing this day's date,

The undersigned plenipotentiaries,

Being desirous of determining exactly some of the provisions of the convention and of its annex,

Have agreed as follows:

I

It is understood that the provisions of Article 2, paragraph 2, of the convention relating to the non-discrimination rule and applicable during the

transition period must be interpreted in the light of international practice relating to undertakings of that nature between countries enjoying legislative sovereignty.

II

With reference to Article 6, paragraph 1, of the *Règlement d'organisation judiciaire*, it is understood that the selection of foreign judges is a matter for the Royal Egyptian Government, but that, in order to satisfy itself regarding the suitability of the persons whom it may select, the Royal Egyptian Government will approach unofficially the Ministers of Justice of the foreign countries concerned and will appoint only persons of whom their respective Governments approve.

Done at Montreux, in a single copy in French and English, both texts being equally authentic, on the eighth day of May one thousand nine hundred and thirty-seven.

[Here follow the same signatures as on the convention.]

[Translation]

ANNEX [7]

Regulations of the Judicial Organization

I. ORGANIZATION AND COMPOSITION

ARTICLE 1

The Mixed Court of Appeal at Alexandria and the three Mixed Tribunals of first instance at Cairo, Alexandria, and Mansurah shall be maintained with their existing territorial areas of jurisdiction.

These areas of jurisdiction may be altered by decree after consultation with the Court.

ARTICLE 2

The Court of Appeal shall be composed of 18 judges, 11 of whom shall be foreigners. Should occasion arise, two judges, of whom one must be a foreigner, may be appointed in addition to that number. Vacancies occurring among the foreign judges of the Court of Appeal shall be filled by the promotion of foreign judges of the Tribunals of first instance.

ARTICLE 3

The Tribunals at Cairo, Alexandria and Mansurah shall, on October 15, 1937, be composed of 61 judges, of whom 40 shall be foreigners.

As vacancies occur among the foreign judges of first instance as a result of

[7] See Articles 3 and 14 of the convention, *ante*, pp. 205 and 207.

retirement, death, resignation or promotion, such judges shall be replaced by Egyptian judges.

Nevertheless, the number of foreign judges in the Tribunals of first instance shall not be less than one-third of the total number of judges of the said Tribunals.

ARTICLE 4

No distinction based on the nationality of judges shall be made either in the matter of the composition of the Chambers or in that of appointments to the various posts in the judicial organization, including the presidency of Tribunals and Chambers.

The President of the Court of Appeal shall be of foreign nationality, and the Vice-President of Egyptian nationality.

Should the President of a Tribunal be of Egyptian nationality, the Vice-President shall be of foreign nationality, and *vice versa.*

ARTICLE 5

The judgments of the Court of Appeal shall be given by five judges. Nevertheless, the law may prescribe that three judges shall compose Chambers to decide matters which are in first instance within the competence of a judge sitting alone.

The Assize Court shall consist of five judges, of whom three shall be Judges of the Court of Appeal.

The judgments of Tribunals of first instance, both in civil and criminal matters, shall be given by three judges.

In commercial matters, the three judges may, in virtue of a law, be assisted by two assessors in a consultative capacity.

In interlocutory matters, in civil cases of a summary nature, and for petty offences, judgments shall be given by a judge sitting alone.

ARTICLE 6

Judges shall be appointed by decree.

They shall be irremovable.

The age at which magistrates may be required to retire shall be 65 years for judges of first instance and 70 years for judges of the Court of Appeal.

Judges shall not be transferred from one Tribunal to another, nor shall they be promoted except in conformity with the recommendation of the General Assembly of the Court of Appeal.

ARTICLE 7

The Presidents and Vice-Presidents of the Court of Appeal and of the Tribunals shall be appointed for one year, by decree, on the nomination of the General Assembly of the Court by an absolute majority of votes. In the case of Tribunals of first instance, nominations shall be made from an

alphabetical list drawn up by the General Assembly of each Tribunal and comprising three candidates at Alexandria and at Cairo and two candidates at Mansurah.

The Presidents of the Chambers of the Court of Appeal shall be nominated annually by the General Assembly of the Court.

The Presidents of the Chambers of each Tribunal shall be nominated annually by the General Assembly of the Court on the recommendation of the General Assembly of the Tribunal.

ARTICLE 8

The salaries of judges are fixed by law.

ARTICLE 9

Judges are debarred from engaging in business and from occupying any salaried position.

ARTICLE 10

Discipline over judges shall be exercised exclusively by the Court of Appeal. The General Judicial Regulations shall determine the disciplinary measures and the procedure to be followed in this matter.

ARTICLE 11

Proceedings shall be public, except in cases where the court by reasoned decision orders the hearing to be held *in camera* in the interests of morality or public order.

The accused shall be free to defend himself against the charge.

ARTICLE 12

The judicial languages employed in the Mixed Tribunals for the conduct of cases and for the drafting of official documents and judgments shall be: Arabic, English, French and Italian.

The operative part of judgments shall be pronounced in two of the judicial languages, of which one must be Arabic. After the pronouncement, judgments drawn up in a foreign language shall be translated in their entirety into Arabic and those drawn up in Arabic shall be translated in their entirety into a foreign language.

In the event of divergence between the original text and the translation, the former shall be authentic.

ARTICLE 13

Subject to the exceptions provided for by the codes, laws or regulations, parties shall be represented at law only by persons authorized to practise as barristers in the Mixed Tribunals. The General Judicial Regulations determine the organization of the Bar and the conditions for the exercise of discipline over barristers.

ARTICLE 14

The auxiliary staff of the Court of Appeal and of the Tribunals shall include: clerks of the courts, assistant clerks, interpreters, bailiffs and other agents.

The General Judicial Regulations determine the conditions for the exercise of discipline over the above-mentioned staff.

ARTICLE 15

Judgments shall be executed on the order of the court by its bailiffs, with the assistance of the administrative authorities when such assistance is requested.

II. THE PARQUET

ARTICLE 16

The Parquet of the Mixed Tribunals shall exercise the powers specified hereinafter together with those conferred upon it by law.

It shall be directed by a Procurator General of foreign nationality.

ARTICLE 17

The Procurator General shall be assisted by a First Advocate General of Egyptian nationality and by a Second Advocate General of foreign nationality.

Should the Procurator General be absent or otherwise prevented from discharging his duties, he shall be replaced in civil matters and for the purposes of administration by the First Advocate General and in criminal matters by the Second Advocate General.

The Procurator General shall, in addition, have under his direction an adequate number of deputies.

ARTICLE 18

The members of the Parquet shall be appointed by decree. They shall be removable and responsible only to their administrative chiefs and, ultimately, to the Minister of Justice.

ARTICLE 19

The "Ministère public," in the person of the Procurator General, one of the Advocates General or a deputy, may sit in all the Chambers and in all the General Assemblies of the Court and of the Tribunals.

ARTICLE 20

In criminal matters, the Parquet shall conduct public prosecutions. It shall control the judicial police in all cases falling within the jurisdiction of the Mixed Tribunals.

Officials recognized by law as being members of the judicial police shall, as such, be under the orders of the Parquet.

ARTICLE 21

The Procurator General shall be called upon to give his opinion on the application to any foreigner of the provisions of the Criminal Code and of the *Code d'Instruction criminelle* concerning total or partial remission or commutation of any penalty and the execution of death sentences.

ARTICLE 22

The Procurator General shall supervise prisons and penitentiaries in which foreigners are detained. He shall, in addition, have free access at all times to any other place wherein a foreigner may be detained.

He shall notify the Minister of Justice of all irregularities of which he becomes aware, and shall make to him any other communications called for in the exercise of the supervision for which he is responsible.

ARTICLE 23

The "Ministère public" shall intervene in all matters involving questions of personal status or nationality. It may furthermore intervene in matters concerning minors or persons under an incapacity, and also in all other cases specified in the Code of Civil Procedure.

It shall further be empowered to order and to have carried out any measures which it may consider proper to safeguard the interests of minors or of persons under an incapacity.

ARTICLE 24

The Parquet shall supervise the administration of judicial funds and the special deposit and consignment fund.

It shall also supervise the clerks of the court and the bailiffs, who shall be under the exclusive control of the Presidents of the Court and Tribunals.

III. COMPETENCE

ARTICLE 25

For the purposes of determining the competence of the Mixed Tribunals, the word "foreigners" shall be taken to mean nationals of the high contracting parties to the Montreux Convention concerning the Abolition of Capitulations in Egypt, together with nationals of any other state that may be specified by decree.

No Egyptian national may avail himself of the protection of a foreign Power.

Nationals of Syria and of the Lebanon and also those of Palestine and Trans-Jordan shall come within the competence of the national jurisdiction as regards both civil and criminal matters.

Foreign nationals (citizens, subjects and protected persons) belonging to religions, confessions or sects for which there exist Egyptian tribunals dealing with matters of personal status, shall continue to have their cases heard by the said tribunals in such matters under the same conditions as in the past.

The nationals specified above shall, moreover, have the right to opt between the mixed jurisdiction and the national jurisdiction in civil and commercial matters. When one of the said nationals is summoned in respect of either of the said matters before a national tribunal, in a case in connection with which he has not previously accepted the competence of the national jurisdiction, he shall, if he wishes to challenge the competence of the tribunal before which the case is brought, do so by registered letter or by service of a writ, or at the latest at the first hearing, failing which the Tribunal shall be competent.

(*A*) *Competence in Civil and Commercial Matters*

ARTICLE 26

The Mixed Tribunals shall take cognizance of all civil and commercial suits between foreigners or between foreigners and parties subject to the jurisdiction of the national courts.

Nevertheless, the national tribunals shall be competent in the aforesaid matters in respect of any foreigner who agrees to submit himself to their jurisdiction.

Such submission may result from a clause attributing competence or from the fact (1) that the foreigner has himself initiated the proceedings before the national courts; or (2) that he has not challenged the competence of the said courts before the pronouncement of a judicial decision in proceedings wherein he has appeared as defendant or as an intervening party.

Submission to the jurisdiction of a court of first instance entails submission to the jurisdiction of superior courts of the same category.

ARTICLE 27

The Mixed Tribunals shall also take cognizance of suits and matters relating to personal status in cases wherein the law to be applied according to the terms of Article 29 is a foreign law.

ARTICLE 28

Personal status comprises: suits and matters relating to the status and capacity of persons, legal relations between members of a family, more particularly betrothal, marriage, the reciprocal rights and duties of husband and wife, dowry and their rights of property during marriage, divorce, repudiation, separation, legitimacy, recognition and repudiation of paternity, the relation between ascendants and descendants, the duty of support as between relatives by blood or marriage, legitimation, adoption, guardianship,

curatorship, interdiction, emancipation, and also gifts, inheritance, wills and other dispositions *mortis causa*, absence and the presumption of death.

ARTICLE 29

The status and capacity of persons shall be governed by their national laws.

The fundamental conditions of the validity of marriage shall be governed by the national law of each of the parties thereto.

In matters concerning relations between the husband and wife, including separation, divorce and repudiation and the effects thereof upon their property, the law to be applied shall be the national law of the husband at the time of the celebration of the marriage.

Reciprocal rights and duties as between parents and children shall be governed by the national law of the father.

The duty of maintenance shall be governed by the national law of the party against whom the claim is made.

Matters relating to filiation, legitimation, and the recognition and repudiation of paternity shall be governed by the national law of the father.

Questions relating to the validity of adoption shall be governed by the national law of the adopting party as well as by that of the adopted person. The effects of adoption shall be governed by the national law of the adopting party.

Guardianship, curatorship and emancipation shall be governed by the national law of the person under the incapacity.

Inheritance and wills shall be governed by the national law of the deceased or of the testator.

Gifts shall be governed by the national law of the donor at the time of the gift.

The rules of the present article shall not affect provisions relating to the legal position of immovable property in Egypt.

ARTICLE 30

Should the nationality of a person be unknown, or should he simultaneously possess, under the laws of several foreign states, the nationality of each of them, the judge shall decide what law shall be applied.

Should a person simultaneously possess the nationality of Egypt under Egyptian law and of one or more foreign states under the law of the state or states concerned, the law to be applied shall be the Egyptian law.

ARTICLE 31

The term "national law" shall be understood to mean the municipal law of the country in question to the exclusion of the provisions of private international law.

ARTICLE 32

Rules of procedure prescribed by a foreign law shall not apply in so far as they are incompatible with Egyptian rules of procedure.

ARTICLE 33

Subject to the provisions of Articles 34, 35, 36 and 37, the competence of the Mixed Tribunals shall be determined solely by the nationality of the parties directly concerned, without regard to any mixed interests which may be indirectly concerned.

ARTICLE 34

Companies of Egyptian nationality already incorporated, in which there are substantial foreign interests shall, in their suits with persons subject to the jurisdiction of the national tribunals, be subject to the jurisdiction of the Mixed Tribunals unless the terms of their incorporation contain a clause attributing competence to the national tribunals, or unless they have accepted the jurisdiction of the said courts in accordance with Article 26.

ARTICLE 35

The Mixed Tribunals shall similarly be competent in matters arising out of the bankruptcy of a person subject to the jurisdiction of the national tribunals if one of the creditors party to the proceedings is a foreigner.

ARTICLE 36

The creation of a charge in favor of a foreigner over immovable property, whoever may be the person in possession or the owner thereof, renders the Mixed Tribunals *ipso facto* competent to determine the validity of the charge and all its consequences up to and including the forced sale of the said property and also the distribution of the monies realized thereby.

ARTICLE 37

The Mixed Tribunals shall not take cognizance of an action not in itself falling within their competence, even if it arises as subsidiary to an action already constituted before them. Nevertheless, they shall take cognizance of the said subsidiary action when the jurisdiction before which it has been brought, decides in the interests of justice, to remit it to be pleaded before them.

The Mixed Tribunals may, if they consider that the interests of justice so require, remit to be pleaded before the national courts an action instituted before them, which is subsidiary to a principal action already instituted before the said national courts.

ARTICLE 38

Suits by foreigners against a Wakf involving a claim to the ownership of

immovable property of the said Wakf shall not be submitted to the Mixed Tribunals. Nevertheless, the said tribunals shall be competent to give judgment on claims brought in respect of legal possession, whoever may be plaintiff or defendant.

Furthermore, suits directly or indirectly concerning the constitution of a Wakf or the validity, interpretation or application of its clauses, or the appointment or removal of the Nazir shall not come within the competence of the Mixed Tribunals.

The Mixed Tribunals may, nevertheless, declare void as against creditors the constitution of property as a Wakf in fraud of the rights of such creditors.

ARTICLE 39

When, in the course of proceedings, an issue is raised concerning the personal status of a party coming in that respect within the jurisdiction of some other court, the Mixed Tribunals shall, if they consider it necessary to secure a preliminary decision upon that issue, suspend judgment on the main issue and prescribe a time limit within which the party against whom the interlocutory plea has been raised must have the matter finally decided by the competent court. If such a preliminary decision is not considered necessary, they shall proceed to give a decision on the main issue.

ARTICLE 40

The cession of a right to a foreigner, the citing of a foreigner as third party, or a fictitious assignment to a foreigner shall not render the Mixed Tribunals competent to decide suits coming within the competence of the national courts if the object of the said cession, citation as third party or fictitious assignment is to remove such litigation from the cognizance of the national tribunals.

Any cession of a right to a foreigner agreed to during the course of the proceedings shall be presumed to have been made with the above object. The court may, however, in exceptional cases, admit proof to the contrary.

Subject to the provisions of the preceding paragraph, the competence of the Mixed Tribunals cannot be challenged on the ground that the assignment is fictitious where the assignment is made by means of the endorsement of a negotiable instrument.

The irregular endorsement of a negotiable instrument to a foreigner, or its endorsement to a foreigner for purposes of collection, shall not give competence to the Mixed Tribunals in the case of suits that are within the competence of the national courts.

ARTICLE 41

Should the litigant whose foreign character gave competence to the Mixed Tribunals cease before the close of the hearing to be a party to the proceedings, the said tribunals shall, on objection being raised by one of the parties,

cease to have competence in the matter, which shall be transferred as it stands to the national courts.

ARTICLE 42

A change in the nationality of one of the parties during the course of the proceedings shall have no effect on the competence of the court before which a case has been properly brought.

ARTICLE 43

The Mixed Tribunals may not directly or indirectly pass judgment on acts of sovereignty. They may not give decisions on the validity of the application of Egyptian laws or regulations to foreigners.

Furthermore, they may not give decisions on the ownership of public property.

Nevertheless, though they may not interpret an administrative act or arrest the execution thereof, they shall be competent to hear (1) all civil and commercial actions between foreigners and the state concerning movable or immovable property; (2) civil actions brought by foreigners against the state in respect of administrative measures taken in violation of laws or regulations.

(B) Criminal Competence

ARTICLE 44

The Mixed Tribunals shall hear all prosecutions of foreigners in respect of acts punishable by law.

ARTICLE 45

The Mixed Tribunals shall further hear all prosecutions against principal offenders or their accomplices, of whatever nationality, in respect of the following crimes and misdemeanors:

(1) crimes and misdemeanors committed directly against judges and judicial officers of the Mixed Tribunals in the performance, or in connection with the performance, of their duties;

(2) crimes and misdemeanors committed directly to hinder the execution of judgments and warrants of the Mixed Tribunals;

(3) crimes and misdemeanors alleged against judges and judicial officers if they are accused of having committed them in the performance of their duties or in abuse of their powers;

(4) bankruptcy offences, whether crimes or misdemeanors with or without fraud, where the bankruptcy proceedings are before the Mixed Tribunals.

The term judicial officers in paragraphs (1) and (3) above shall comprise: clerks of the court, sworn assistant clerks, interpreters attached to the tribunal, and the official bailiffs, but not persons incidentally entrusted,

by delegation from the tribunal with the service or execution of writs or warrants.

ARTICLE 46

In criminal matters the police courts shall deal with offences defined as contraventions by law and misdemeanors carrying a penalty of not more than three months' imprisonment.

The correctional courts shall deal with offences defined as misdemeanors by law other than those referred to in the preceding paragraph, and shall hear appeals against decisions given by the police courts.

The assize courts shall deal with offences defined as crimes by law.

ARTICLE 47

Arrests and domiciliary searches of foreigners, except in cases of "*flagrant délit*" or a call for help from within the dwelling-house shall be carried out by, or in the presence of, a member of the Mixed Parquet or an officer of the judicial police to whom such functions have been delegated by the Mixed Parquet.

ARTICLE 48

In criminal matters, if the Parquet considers there are grounds for prosecution, it must refer the case to the investigating magistrate.

In correctional matters also, the Parquet shall refer the case to the investigating magistrate unless it decides that the information received on summary enquiry is sufficient for the case to be brought to trial. In such a case, if the accused has been heard, or if his absence or the impossibility of finding his residence has been duly established, the Parquet may summon him directly before the tribunal.

Nevertheless, at the request of the accused or of the Parquet, or without being moved thereto, the tribunal may declare the summons to be annulled and order the case to be referred to the investigating magistrate.

ARTICLE 49

The detention of any foreigner shall at once be notified to the Parquet. The Parquet is bound within the time specified in the *Code d'Instruction criminelle* and, at longest, within four days either to order the release of the person detained or to send him before the investigating magistrate.

Any foreigner who is detained pending trial shall have the right to inform his consul and his lawyer of his detention through the intermediary of the Parquet.

The consul and the lawyer of the detained person may visit him in prison under conditions approved by the Parquet.

ARTICLE 50

Except in cases of urgency, if the accused has no defending counsel one

shall be appointed for him, if he so requests, at the time of his interrogation, failing which the proceedings shall be void.

A defending counsel shall further be officially appointed within a reasonable time before the hearing of the case to every accused person committed for trial before the Assize Court.

IV. GENERAL AND TRANSITORY PROVISIONS

ARTICLE 51

The Mixed Tribunals shall administer justice in Our Name.

ARTICLE 52

Where the law is silent, insufficient or obscure, the judge shall act in conformity with the principles of natural law and with the rules of equity.

ARTICLE 53

Actions begun prior to October 15 1937, before a consular jurisdiction shall be continued before that jurisdiction until a final judgment has been given.

The same shall apply to actions which have been begun prior to that date before the Mixed Tribunals and which by virtue of the present law, would come within the competence of the national tribunals.

In civil matters, actions referred to in the two paragraphs above may, on the request of the parties thereto and with the consent of all persons having an interest therein, be referred at the stage which they have reached to the courts which are competent according to the provisions of the preceding articles in order that they may be continued and decided therein.

In criminal matters also, consular jurisdictions may refer cases begun prior to October 15, 1937, to the Mixed Tribunals.

ARTICLE 54

Judgments and orders of the Consular Courts shall continue to have the force of *res judicata* and shall, when necessary, be executed through the agency of the Mixed Tribunals.

ARTICLE 55

Prescriptions and foreclosures which were applicable in cases when within the competence of the Consular Courts shall continue to apply when they come before the Mixed Tribunals.

ARTICLE 56

Notwithstanding the provisions of Article 27, the Mixed Tribunals shall not have competence in matters of personal status where the law applicable in accordance with the provisions of Article 29 is that of a high contracting

party to the Convention Regarding the Abolition of the Capitulations in Egypt, which, in accordance with Article 9 of that convention, has reserved jurisdiction in personal status for its Consular Courts and that reservation has not been withdrawn.

ARTICLE 57

The provisions of the existing General Judicial Regulations shall remain in force in so far as they are not abrogated or modified by the preceding provisions.

No modification of the said regulations proposed by the General Assembly of the Court shall take effect until promulgated by decree on the proposal of the Minister of Justice.

ARTICLE 58

The present *Règlement d'organisation judiciaire pour les procès mixtes en Égypte* and any provisions contrary to the present law are hereby abrogated.

Declaration by the Royal Egyptian Government

The undersigned, acting in virtue of their full powers, make the following declaration:

1. COMPETENCE OF THE MIXED TRIBUNALS

With reference to Article 25, paragraph 1, of the *Règlement d'organisation judiciaire*, the Royal Egyptian Government has already decided to extend by decree the competence of the Mixed Tribunals to nationals of the following eight states: Austria, Czechoslovakia, Germany, Hungary, Poland, Roumania, Switzerland, Yugoslavia.

2. NON-DISCRIMINATION RULE

With reference to Article 2, paragraph 2, of the convention and the protocol relating thereto, the fact that the effect of the non-discrimination rule referred to in the above-mentioned Article 2 is limited to the duration of the transition period, does not imply any intention on the part of the Royal Egyptian Government to pursue thereafter in this matter any contrary policy of discrimination against foreigners. The Royal Egyptian Government is, moreover, prepared to conclude Establishment Treaties and Treaties of Friendship with the various Powers.

3. PERSONAL STATUS

The Royal Egyptian Government, having already, and more particularly in the Establishment Treaties which it has concluded with Iran and Turkey, spontaneously adopted the principle that, in matters of personal status, the personal law should apply, intends to adopt the same principle with regard thereto in the future.

As regards the rules of procedure, which the Royal Egyptian Government intends to enact for cases of personal status, these will be applied provided that no substantive rule of the foreign national law prevents their application.

4. Deportation

Although the abolition of Capitulations entails the removal of all the existing restrictions on the Royal Egyptian Government's right to deport foreigners who are within Egyptian territory, nevertheless that Government does not intend to exercise during the transition period its right of deportation in respect of a foreigner subject to the jurisdiction of the Mixed Tribunals, who shall have resided in Egypt for at least five years, or to refuse such a foreigner access to Egyptian territory, if he has temporarily quitted that territory, unless:

(*a*) he has been convicted in respect of a crime or misdemeanor punishable by more than three months' imprisonment, or

(*b*) he has been guilty of activities of a subversive nature or to the prejudice of public order or public tranquillity, morality or health, or

(*c*) he is indigent and a burden upon the state.

The Royal Egyptian Government further proposes to set up an administrative advisory committee, of which the Procurator General of the Mixed Tribunals shall be a member, for the purpose of examining any disputes on the subject of the identity or the nationality of the person whose deportation is under consideration, or of the length of his residence in Egypt, or of the existence of the facts which constitute the grounds for deportation.

5. Extradition

In conformity with the practice generally adopted in regard to extradition, the Royal Egyptian Government intends to adopt judicial procedure in this matter. It will therefore be necessary for the Mixed Tribunals to pronounce upon the regularity of the request for extradition when such request relates to a foreigner within the jurisdiction of the said Tribunals.

6. Clause relating to the jurisdiction to which disputes should be submitted

With reference to Article 26 of the *Règlement d'organisation judiciaire*, the Royal Egyptian Government does not intend to insert in government contracts (including contracts made by public administrations and municipalities) any clause relating to the jurisdiction to which disputes should be submitted.

7. Judges, officials and members of the Bar

The Royal Egyptian Government does not intend to alter either the existing conditions of service or the present salaries of judges of the Mixed Tribunals.

Similarly, the Government does not intend to alter the present salaries of officials and employees of the said Tribunals.

It will give sympathetic consideration to their treatment in respect of grading, rules for increase of salary and promotion, when the new cadre now being considered is introduced.

The case of any such officials and employees who may be retired at the end of the transition period will receive special consideration, the circumstances peculiar to each individual being taken into account. Should such circumstances justify it, certain advantages may be granted in the matter of the pension or compensation to be paid.

As regards the pensions of foreign judges, officials and employees, the Government intends to ensure that they are not prejudiced by double taxation.

Furthermore, in the case of advocates admitted to practise at the Mixed Bar the Egyptian Government intends to take the necessary measures to enable such advocates, at the end of the transition period, to obtain unconditionally the inscription of their names and the recognition of their professional seniority on the roll of the Order of Advocates practising in the National Tribunals.

Done at Montreux on May 8, 1937.

MOUSTAPHA EL-NAHAS
A. MAHER
WACYF BOUTROS GHALI
MAKRAM EBEID
A. BADAOUI

Letters Relating to Educational, Medical, and Charitable Institutions (Associations or Foundations)

Letter from the President of the Egyptian Delegation to the President of the Delegation of the United States of America

MONTREUX, *May 8, 1937*

SIR,

As Your Excellency has expressed a desire to receive detailed information concerning the situation of the educational, medical and charitable institutions (associations or foundations) of the United States of America in Egypt, I have the honor to state that the Royal Egyptian Government is prepared to assure you that pending the conclusion of a subsequent agreement or, in any case until the end of the transition period, all the above-mentioned institutions, actually existing in the country at the date of the convention signed this day, may continue freely to carry on their activities in Egypt, whether educational, scientific, medical or charitable, subject to the following conditions:

(1) They shall be subject to the jurisdiction of the Mixed Tribunals and shall be subject to Egyptian laws and regulations, including fiscal laws, under the same conditions as similar Egyptian institutions, and also to all measures necessary for the preservation of public order in Egypt.

(2) They shall retain their legal status and shall, as regards their organization and operation, be governed by their charters or other instruments under which they were created and also in the case of educational institutions, by their own curricula.

(3) They may, without prejudice to the laws relating to expropriation for purposes of public utility, possess the movable and immovable property necessary to enable them to attain their objects, and may administer and dispose of their property for these purposes.

(4) They may continue to employ their existing staff and may also, each within the scope of its organization, employ either Egyptians or foreigners, whether established in Egypt or elsewhere, without prejudice in all cases to the application of the Egyptian laws which are now applicable to them or to the Egyptian Government's general right of control over the entry of foreigners into Egypt.

Furthermore, within the limits of the customs recognized in Egypt regarding religions other than the state religion, freedom of worship shall continue to be assured to all religious institutions of the United States of America on condition that there is no offence against public order or morals.

A list of the institutions referred to in this letter shall be drawn up as soon as possible in agreement between the Egyptian Government and the Government of the United States of America.

I have the honor to be, Sir,

Your obedient servant.

Moustapha EL-NAHAS
President of the Egyptian Delegation

Reply by the President of the Delegation of the United States of America to the President of the Egyptian Delegation

MONTREUX, *May 8, 1937*

SIR,

I have the honor to acknowledge the receipt of Your Excellency's letter bearing to-day's date. I welcome the assurances which it contains with regard to the régime to be enjoyed henceforth by the educational, medical and charitable institutions (associations or foundations) of the United States of America in Egypt.

I have great pleasure in thanking Your Excellency. I do not doubt, moreover, that Egypt, which has always shown a sympathetic interest in such undertakings and has given proof of the most liberal spirit of understanding in regard to them, will continue to assist them in carrying on the

very valuable work which they have always performed to the mutual profit of our two countries.

I have the honor to be, Sir,

Your obedient servant.

BERT FISH
President of the Delegation of the United States of America

[Identic letters were exchanged between the Egyptian delegation and the delegations of the United Kingdom, Spain, France, Greece, Italy, The Netherlands.]

ABOLITION OF CAPITULATIONS IN MOROCCO AND ZANZIBAR

CONVENTION BETWEEN THE UNITED KINGDOM AND FRANCE [1]

Signed at London, July 29, 1937; ratifications exchanged Dec. 1, 1937

His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and the President of the French Republic, acting in his own name and on behalf of His Majesty the Sultan of Morocco;

Whereas the present special régime applicable in the French Zone of the Shereefian Empire to British consuls, nationals, and institutions is no longer in accordance with the present state of that zone;

And whereas His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, in view of the convention signed at Montreux on the 8th day of May, 1937,[2] relating to the abolition of the Capitulations in Egypt, desires to give effect as regards the French Zone of Morocco to the Declaration of the 8th April, 1904,[3] relating to Egypt and Morocco;

And whereas both high contracting parties are also desirous of modifying certain treaties applicable to Zanzibar so as to render them more in conformity with existing conditions;

Have accordingly decided to conclude a convention for this purpose and have appointed as their plenipotentiaries:

His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India (hereinafter referred to as His Majesty The King):

For Great Britain and Northern Ireland:

The Right Honorable Anthony Eden, M.C., M.P., His Majesty's Principal Secretary of State for Foreign Affairs;

The President of the French Republic:

[1] G. B. Treaty Series, No. 8 (1938). [2] Printed herein, *ante*, p. 201.
[3] G. B. Treaty Series, No. 6 (1905)—Cd. 2384; this JOURNAL, Supp., Vol. 1 (1907), p. 6.

His Excellency Monsieur Charles Corbin, Ambassador Extraordinary and Plenipotentiary of the French Republic in London;

Who, having deposited their full powers, found in good and due form, have agreed as follows:

ARTICLE 1

His Majesty The King renounces all rights and privileges of a capitulatory character in the French Zone of the Shereefian Empire.

ARTICLE 2

British subjects, British-protected persons and British companies in the French Zone of the Shereefian Empire shall be subject to the jurisdiction of the same tribunals as French citizens and French companies.

In their recourse to such tribunals British subjects, British-protected persons and British companies shall be subject to the same conditions as French citizens and French companies.

After the expiry of ten years from the date of the coming into force of the present convention, the provisions of the second paragraph of this article cannot be invoked, unless the subjects of His Majesty the Sultan of Morocco and companies duly incorporated under the law of the French Zone of the Shereefian Empire enjoy in the United Kingdom the treatment of the most favored nation as regards the matter referred to in that paragraph.

ARTICLE 3

In respect of matters occurring before the entry into force of the present convention, laws and regulations of the French Zone of the Shereefian Empire shall only be applied to British subjects, British-protected persons, British companies and British ships in cases where in accordance with the existing practice such laws and regulations were then applicable to them.

Duties and taxes, however, payable under legislation, enacted less than one year before the date of the entry into force of the present convention and not yet made applicable by regulations of the British consular authorities, may be recovered from British subjects, British-protected persons and British companies.

British subjects, British-protected persons and British companies shall not be sued in the courts of the French Zone for taxation or duties of any kind which became due more than two years before the coming into force of this convention.

ARTICLE 4

The British courts at present exercising jurisdiction in the French Zone of the Shereefian Empire shall continue to deal with the cases regularly instituted before them before the entry into force of the present convention until these cases are finally completed.

Decisions, given by the said courts within the limits of their jurisdiction and which are final, shall be recognized as having the force of *res judicata* by the authorities of the French Zone of the Shereefian Empire. Certificates given by the British consular officers to the effect that the said decisions are final will be accepted.

His Majesty The King undertakes to retain in Morocco all the judicial records of the British consular courts. These records shall be made available to the tribunals of the French Zone of the Shereefian Empire wherever these tribunals require them for the purpose of cases within their jurisdiction. Certified copies of these records will be furnished on request to the said tribunals, the competent authorities of the zone and to any other properly interested party.

ARTICLE 5

Subject to the provisions of paragraphs 2 and 3 below, no person owing allegiance to His Majesty the Sultan of Morocco can claim in the French Zone of the Shereefian Empire the protection of His Majesty The King.

Natives of the French Zone of the Shereefian Empire, who at the date of the entry into force of the present convention enjoy British protection, either as employees of a British consulate or as semsars, shall for the remainder of their life be justiciable by the French tribunals of the Shereefian Empire except as regards matters coming within the jurisdiction of the Moslem or Jewish religious courts. A list of these persons shall be drawn up within six months of the coming into force of the present convention by agreement between the French Residency-General and the British Consulate-General at Rabat. This list shall include the wives and minor children of these persons living under the same roof, and the provisions of this paragraph shall apply in the case of the wives during the lifetime of their husbands, and in the case of the children until the death of their fathers or until their majority, whichever happens earliest.

The persons enumerated in the annex to the present convention [4] shall also enjoy the benefit of the provisions of paragraph 2 above.

ARTICLE 6

The British post offices in the French Zone of the Shereefian Empire will be closed at the date which shall be notified to the Residency-General at Rabat by the British Consulate-General and in any case not later than thirty days after the entry into force of the present convention.

ARTICLE 7

British subjects, British-protected persons and British companies will enjoy in the French Zone of the Shereefian Empire the same personal and private rights (*droits privés*) as French citizens and French companies.

[4] Omitted from this JOURNAL.

They shall have the same guarantees for the protection of person and property.

ARTICLE 8

British subjects and British-protected persons shall not be subject in the French Zone of the Shereefian Empire to any compulsory personal military service nor to any tax or payment in lieu of such service.

After the expiry of ten years from the date of the entry into force of the present convention, the provisions of the present article cannot be invoked unless the subjects of His Majesty the Sultan of Morocco enjoy in the United Kingdom the treatment of the most favored nation as regards the matter referred to in this article.

ARTICLE 9

Extracts from "casier judiciaire" shall be delivered to British subjects and British-protected persons resident in the French Zone of Morocco in the same conditions as to French citizens. In order to enable the competent authorities of the zone to deliver such extracts, the British consular authorities in the zone will supply to these authorities certificates as regards convictions, if any, pronounced by the British consular courts in Morocco.

ARTICLE 10

His Majesty The King shall have the right to maintain consulates at any place in the French Zone of the Shereefian Empire where British consulates are at present established. The establishment of new consulates at other places in the said zone shall be subject to the agreement of the Governments of both high contracting parties.

British consular officers in the French Zone shall enjoy privileges and immunities not less favorable than those accorded to British consular officers in France or to the consular officers of any other Power in Morocco.

Neither this article nor Article 20 of the General Treaty signed at Tangier on the 9th December, 1856,[5] on behalf of Her late Majesty The Queen of the United Kingdom of Great Britain and Ireland and His late Majesty the Sultan of Morocco and Fez, shall, however, entitle His Majesty The King to claim jurisdictional privileges accorded on the basis of existing treaties concluded by His Majesty the Sultan of Morocco and the United States of America.

ARTICLE 11

British schools of every grade shall continue to enjoy in the French Zone, especially in regard to the teaching of English, the same liberty as hitherto. They will be subject to the laws relating to state control which are applicable to all European schools in the French Zone.

[5] Presented to both Houses of Parliament by Command of Her Majesty, 1857.

ARTICLE 12

Article 4, paragraph 1, of the General Treaty signed at Tangier on the 9th December, 1856, does not affect the right of the authorities of the French Zone of the Shereefian Empire to regulate admittance and immigration into the territory or to expel persons for reasons of police or public order or to apply immigration regulations, provided that there is no discrimination against British subjects or British-protected persons.

Nevertheless, British subjects and British-protected persons who have been resident in the French Zone of Morocco for more than five years shall not be expelled unless—

(*a*) They have committed a crime or offence punishable with more than three months' imprisonment.
(*b*) They have been guilty of conduct prejudicial to public safety, public order, good morals or public health.
(*c*) They are in such a state of indigence as to be a burden to the state.

The provisions of paragraph 2 of this article may be terminated at any time after the expiry of twenty years from the date of the coming into force of this convention by six months' notice.

ARTICLE 13

The powers conferred on British consular officers in the French Zone of the Shereefian Empire in matter of the estates of deceased persons by Article 18 of the General Treaty signed at Tangier on the 9th December, 1856, are maintained.

Any disputes arising as regards the estates referred to in the said article shall be determined by the competent tribunals of the said zone in conformity with the provisions of laws of general application.

The provisions of this article may be terminated at any time after the expiry of twenty years from the date of the entry into force of the present convention by a six months' notice.

ARTICLE 14

The high contracting parties agree that the French decree of the 8th November, 1921, relating to French nationality in the French Zone of the Shereefian Empire, and the Dahir of the same date, relating to Moroccan nationality, are not applicable to British subjects or protected persons born before the date of the entry into force of the present convention.

If the French or Moroccan Governments should enact measures which would result in conferring French or Moroccan nationality by reason of birth or residence in the French Zone of the Shereefian Empire in any case where the above-mentioned decree would not have conferred French nationality, British subjects and protected persons affected by these enactments shall be

freed from French or Moroccan nationality if they make a request to this effect in the year which follows their majority.

ARTICLE 15

The subjects of His Majesty the Sultan of Morocco and Moroccan vessels shall enjoy the same rights as French citizens and French ships in the United Kingdom of Great Britain and Northern Ireland, British colonies and in territories under the protection of His Majesty The King, and in mandated territories administered by the Government of the United Kingdom.

The expression "Moroccan vessels" means ships duly registered as such in a port of the French Zone of the Shereefian Empire.

ARTICLE 16

The provisions of all earlier Acts, treaties and conventions which are contrary to the preceding provisions of the present convention are abrogated as between the high contracting parties so far as the French Zone of the Shereefian Empire is concerned.

Articles 13 and 20 of the General Treaty signed at Tangier on the 9th December, 1856, cannot be invoked by His Majesty The King to claim the jurisdictional privileges enjoyed by the United States of America under treaties at present in force.

His Majesty The King renounces all rights in the French Zone of the Shereefian Empire under the Convention of Madrid of 1880.[6]

ARTICLE 17

The French Republic renounces all rights and privileges of a capitulatory character in the territories of His Highness the Sultan of Zanzibar.

ARTICLE 18

French nationals (citizens, subjects and protected persons) and French companies shall be subject in the territories of the Sultan of Zanzibar to the jurisdiction of the same courts as British subjects and British companies.

In their recourse to such courts French nationals and French companies shall be subject to the same conditions as British subjects and British companies for so long as British subjects, British-protected persons and British companies enjoy in the French Zone of the Shereefian Empire the benefit of paragraph 2 of Article 2 of the present convention.

ARTICLE 19

French nationals (citizens, subjects and protected persons) and French companies will enjoy in the territories of His Highness the Sultan of Zanzibar the same rights as those accorded in the French Zone of the Shereefian Em-

[6] Parliamentary Paper "Morocco No. 1 (1951)"—C. 3053.

pire to British subjects, British-protected persons and British companies under Articles 7, 8 and 12 above and subject to the same conditions.

ARTICLE 20

French consuls in the territories of His Highness the Sultan of Zanzibar shall enjoy privileges and immunities not less favorable than those accorded to French consular officers in the United Kingdom or those accorded to the consuls of any other Power in the territories of His Highness the Sultan of Zanzibar.

Neither Article 2 nor Article 5 of the treaty signed at Zanzibar on the 17th November, 1844,[7] with His Highness the Sultan of Muscat and dependencies shall entitle the French Republic to claim in the territories of His Highness the Sultan of Zanzibar jurisdictional privileges or personal privileges for French consuls or French nationals on the basis of privileges claimed or granted to other Powers in virtue of existing treaties concluded by His Highness the Sultan of Muscat.

ARTICLE 21

French schools shall continue to enjoy in the territories of the Sultan of Zanzibar the same freedom as in the past, particularly in regard to the teaching of French. They shall be subject to the laws relating to state control which are applicable to all European schools.

ARTICLE 22

The powers reserved by the Government of the French Republic as regards estates of deceased nationals for the benefit of French consuls in the territories of His Highness the Sultan of Zanzibar by the letter of the 13th May, 1904,[8] shall be maintained.

All disputes that may arise as regards such estates shall be determined in the territories of His Highness the Sultan of Zanzibar by the competent tribunals in accordance with the provisions of laws of general application. French consuls shall not in any matter be cited before a native court in this capacity as administrator or liquidator of the estate of a French national.

The provisions of the present article may be terminated at any time after the expiry of twenty years from the date of the entry into force of the present convention by six months' notice.

ARTICLE 23

The following provisions of the Treaty signed at Zanzibar on the 17th November, 1844, with His Highness the Sultan of Muscat and dependencies, namely, Articles 3, 4, 6, 7, 8 and 9, are abrogated so far as the territories of His Highness the Sultan of Zanzibar are concerned.

[7] See British and Foreign State Papers, Vol. XXXV, p. 1011.

[8] See British and Foreign State Papers, Vol. XCIX, p. 357.

ARTICLE 24

For the purposes of this convention the expression "British companies" means any company duly incorporated under the law of any territory under the sovereignty of His Majesty The King or of any territory under his protection, suzerainty or mandate, and the expression "British ships" means any ship duly registered in any of the above-mentioned territories.

The expression "French companies" means any company duly incorporated under the law of France or any French colony, protectorate or territory under mandate, and the expression "French ships" means any ship duly registered in any of the above-mentioned territories.

The expression "subject of His Majesty the Sultan of Morocco" only includes those of His Majesty's subjects who enjoy French diplomatic protection abroad.

The expression "territories of His Highness the Sultan of Zanzibar" means the territories referred to in the notes exchanged on the 13th and 18th May, 1904,[9] between the Government of the United Kingdom and the Government of the French Republic.

ARTICLE 25

Any dispute between the high contracting parties relating to the interpretation or application of the provisions of the present convention, which they are unable to settle by diplomatic means, shall, on the application of one of them, be submitted to the Permanent Court of International Justice unless the high contracting parties agree on another method of settlement.

ARTICLE 26

The present convention shall be ratified.

The instruments of ratification shall be exchanged at Paris.

The present convention shall enter into force one calendar month after the date of the exchange of ratifications.

In faith whereof the above-named plenipotentiaries have signed the present convention.

Done this 29th day of July, 1937, at London, in duplicate, in English and French, both texts being equally authentic.

ANTHONY EDEN
CHARLES CORBIN

PROTOCOL OF SIGNATURE

At the moment of signing the convention of this day's date the undersigned, being duly authorized to this effect—

1. Declare that it is the intention of both Governments that ratifications shall be exchanged at such date as to enable the convention to come into force on the 1st day of January, 1938;

[9] See British and Foreign State Papers, Vol. CIX, p. 357.

2. Declare, with reference to Article 7, that the present convention in no way affects the treaties in force under which in the French Zone of the Shereefian Empire,

(*a*) British subjects, British-protected persons and British companies enjoy equality of treatment with French citizens and French companies in the matter of rights concerning movable and immovable property, mining rights, the exercise of professions, commerce, business and industry;
(*b*) British ships enjoy equality of treatment with French ships;
(*c*) British subjects, British-protected persons and British companies enjoy equality of treatment in matters of taxation with French citizens and French companies;

3. Declare, with reference to Article 19, that the present convention in no way affects the treaties in force under which, in the territories of His Highness the Sultan of Zanzibar, French nationals and French companies enjoy the equality of treatment with British subjects and British companies in regard to the matters specified as in paragraph 2 above;

4. Declare that the effect of Articles 1 and 16 of the convention is—

(*a*) as regards the General Treaty signed at Tangier on the 9th December, 1856, to abrogate in so far as they are still in force Articles 2, 3, 4 (except the first and last sentences), 5 to 12, 14, 17 and 18 (except in so far as the provisions of this article are maintained by Article 13 of the convention); and (*b*) as regards the Act of Algeciras [10] to involve the renunciation by His Majesty The King of the right to rely upon Articles 1 to 50, 54 to 65, 70, 71, all provisions of Article 72 after the word "permit," 75, 76, 80, 97, 101, 102, 104, 113 to 119; further, in Article 81 the words "by the competent consular authority" must be deemed to be omitted and in Article 91 the word "competent" must henceforth be substituted for the word "consular";

5. Declare that, in view of the fact that some of the provisions in the instruments referred to in paragraph 4 above were not considered in the course of the present negotiations, it is understood that the present convention in no way affects the question whether the provisions of these two instruments, which are not specifically mentioned in paragraph 4 above, are still in force or have become obsolete, and the respective points of view of the two high contracting parties are entirely reserved as regards the continuance in force of these provisions, and the present convention cannot be invoked in this respect.

Done this 29th day of July, 1937, at London, in duplicate, in English and French, both texts being equally authentic.

ANTHONY EDEN
CHARLES CORBIN

[10] G. B. Treaty Series, No. 4 (1907)—Cd. 3302; this JOURNAL, Supp., Vol. 1 (1907), p. 47.

MINUTE

The two delegations desire to record in a minute certain conclusions which were reached in the course of the negotiations relating to the abolition of rights of a capitulatory character in the French Zone of the Shereefian Empire. These conclusions are as follows:

(1) Upon the promulgation of the projected Arrêtés Viziriels, referred to in the note of the 26th April, 1937, from the Residency-General at Rabat to His Majesty's Consul-General at that city, which will modify the Arrêtés Viziriels of 1933 so as to allow motor-transport enterprises in the French Zone of the Shereefian Empire to insure their vehicles and their employees with different companies, His Majesty's Government will forthwith cause a King's Regulation to be made applying to British subjects, British-protected persons and British companies, the provisions of the legislation governing transport in the French Zone of the Shereefian Empire.

They will also, upon the promulgation in the French Zone of the projected legislation regarding the insurance of motor vehicles, at once cause a King's Regulation to be made applying this legislation to British subjects, et cetera, subject to such reservations as have already been agreed upon.

It is possible that the point arising on Article 17 (*g*) of the projected vizierial decree on insurance of motor vehicles may have to be the subject of further discussion, but there should be no difficulty in settling this point long before January 1938.

(2) With reference to paragraph 2 of Article 5, the terms of which are limited to natives of the French Zone of the Shereefian Empire, the United Kingdom Delegation requested that, when the list provided for in this paragraph is drawn up, the British Consulate-General should be permitted to include in it about 10 semsars and consular employees at present resident in the Spanish Zone on the grounds that these persons are at present subject to the British consular court if they engage in litigation in the French Zone, and, further, that it would be illogical if in the future by reason of a similar agreement with the Spanish Government they should be subject to the Spanish courts in the Spanish Zone, that they should be subject to the native courts in the French Zone.

The French Delegation took note of this request and explained that it was a point on which they had at present no instructions from their Government, and that there was not at this stage of the negotiations time to obtain such instructions. They, nevertheless, undertook to recommend this request for the favorable consideration of the French authorities when discussions took place with regard to the drawing up of the list.

(3) With reference to Article 7, the two delegations wish to place on record that a copy of the Dahir of the 12th August, 1913, which at present regulates the status of French citizens and of foreign nationals in the French Zone of the Shereefian Empire was produced and note was taken thereof by the United Kingdom Delegation.

(4) With reference to paragraph 2 of the Protocol of Signature, it was agreed by both delegations that the existence and duration of the rights referred to in this paragraph should not be deemed to be affected in any way by any abrogation of the Commercial Treaty signed at Tangier in 1856 or by its replacement by another commercial treaty of a non-permanent character.

(5) It is understood that, during the commercial negotiations envisaged in the letters with regard to the Commercial Treaty of 1856 the question of the *Règlement sur les douanes* in the French Zone may be included as one of the matters to be discussed.

C. HOWARD SMITH
CORDIER

Foreign Office, the 29th day of July, 1937

EXCHANGES OF NOTES

No. 1. *M. Corbin to Mr. Eden*

[Translation]

French Embassy, London, July 29, 1937

SIR,

At the moment of proceeding to signature of the convention for the abolition of rights of a capitulatory character in the French Zone of the Shereefian Empire, your Excellency expressed the desire to be informed as to the régime which will be applied in this zone to British missionaries.

I have the honor to inform you that the French Government has authorized me to state that British missionaries, both those established there at present and those that may come in the future, other than Roman Catholic missionaries, will enjoy in the French Zone of the Shereefian Empire the same treatment as French missionaries. British Roman Catholic missionaries will enjoy the same treatment as that accorded to Roman Catholic missionaries of the most favored nation other than French Roman Catholic missionaries.

I have, &c.

CH. CORBIN

No. 2. *Mr. Eden to M. Corbin*

Foreign Office, London, July 29, 1937

YOUR EXCELLENCY,

I have to acknowledge the receipt of your letter of this day's date relating to British missionaries in the French Zone of the Shereefian Empire and to state that His Majesty's Government in the United Kingdom are in agreement with the terms of this letter.

I have, &c.

ANTHONY EDEN

No. 3. *M. Corbin to Mr. Eden*

[Translation]

French Embassy, London, July 29, 1937

SIR,

At the moment of the signing of the convention relating to the abolition of rights of a capitulatory character in the French Zone of the Shereefian Empire, I have to inform your Excellency that the French Government will raise no objection to representations by the British consul-general at Rabat with the competent authorities in favor of the persons covered by paragraphs 2 and 3 of Article 5 of the said convention.

I have, &c.

CH. CORBIN

No. 4. *Mr. Eden to M. Corbin*

Foreign Office, London, July 29, 1937

YOUR EXCELLENCY,

I have the honor to acknowledge the receipt of your Excellency's note of this day's date relating to the persons covered by paragraphs 2 and 3 of Article 5 of the convention relating to the abolition of rights of capitulatory character in the French Zone of the Shereefian Empire, and to state that His Majesty's Government in the United Kingdom are in agreement with the terms of this letter.

I have, &c.

ANTHONY EDEN

No. 5. *Mr. Eden to M. Corbin*

Foreign Office, London, July 29, 1937

YOUR EXCELLENCY,

There have been disputes in the past as regards the application to the immovable property of British subjects, British-protected persons and British companies in the French Zone of the Shereefian Empire of protectorate legislation relating to expropriation, or the imposition of servitudes, for reasons of public utility and as regards the compensation payable therefor. Since it is the desire of both Governments that all these disputes shall be settled or provision made for their settlement at the moment when British subjects, British-protected persons and companies in the zone cease to be subject to a special judicial régime, it has therefore been agreed that within two months of the date of this note His Majesty's Consul-General at Rabat shall present a list to the Shereefian authorities of all the cases of this kind which His Majesty's Government in the United Kingdom consider should be settled. In the two months following receipt of the list the Consul-General and the

Protectorate authorities will settle as many of these cases as possible by agreement between them.

If there are any cases which cannot be settled in this way, it has been agreed that they shall be referred to M. Cordier, First President of the Court of Appeal at Rabat, to give his opinion as regards the amount of compensation which is due as a matter of equity on the understanding that the Government of the French Republic and His Majesty's Government in the United Kingdom agree to accept this opinion as final.

I have, &c.

ANTHONY EDEN

No. 6. *M. Corbin to Mr. Eden*

[Translation]

French Embassy, London, July 29, 1937

SIR,

I have the honor to acknowledge the receipt of your Excellency's note of this day's date relating to the settlement of certain questions of expropriation affecting British subjects, British-protected persons and British companies in the French Zone of the Shereefian Empire, and to state that the French Government is in agreement with the terms of this note.

I have, &c.

CH. CORBIN

No. 7. *M. Corbin to Mr. Eden*

[Translation]

French Embassy, London, July 29, 1937

SIR,

At the moment of the signature of the convention for the abolition of rights of a capitulatory character in the French Zone of the Shereefian Empire, your Excellency expressed the desire to be informed with regard to the régime which would be applied in this zone to British Chambers of Commerce.

I have the honor to inform you that the French Government have authorized me to state that British Chambers of Commerce will be permitted to carry on their work in the French Zone of the Shereefian Empire on condition of conforming to the laws and regulations applicable to associations. These Chambers of Commerce will not be assimilated to the French consultative chambers on which rights of a political character are conferred. On the other hand, it is the intention of the French Government that they shall be treated in the same manner as French professional associations, and, in particular, that they shall be able to present to the French Administration

of the Protectorate their wishes and suggestions in the same conditions as French professional associations.

I have, &c.

CH. CORBIN

No. 8. *Mr. Eden to M. Corbin*

Foreign Office, London, July 29, 1937

YOUR EXCELLENCY,

I have the honor to acknowledge the receipt of your Excellency's letter of this day's date relating to British Chambers of Commerce in the French Zone of the Shereefian Empire, and to state His Majesty's Government in the United Kingdom have taken note of the terms of this letter.

I have, &c.

ANTHONY EDEN

No. 9. *Mr. Eden to M. Corbin*

Foreign Office, London, July 29, 1937

YOUR EXCELLENCY,

I have the honor to inform your Excellency that His Majesty's Government in the United Kingdom agree with the French Government in recognizing that the conditions laid down in Article 14 of the Commercial Treaty of 1856 for the denunciation of that treaty no longer correspond with modern conditions, and being equally desirous of revising the said treaty, agree that it is opportune to begin negotiations for the purpose of establishing the commercial relations between Great Britain and Morocco on a new basis corresponding to the respective economic interests of the contracting parties.

The new commercial treaty shall be based upon the principles of reciprocity and shall replace the Commercial Treaty of 1856.

It is understood that the two Governments will endeavor to secure that such a treaty shall be concluded before the entry into force of the treaty relating to the abolition of capitulatory rights in the French Zone of the Shereefian Empire.

I have, &c.

ANTHONY EDEN

No. 10. *M. Corbin to Mr. Eden*

[Translation]

French Embassy, London, July 29, 1937

SIR,

[As in No. 9.]

I have, &c.

CH. CORBIN

No. 11. *Mr. Eden to M. Corbin* [11]

Foreign Office, London, July 29, 1937

YOUR EXCELLENCY,

With reference to the convention signed this day at London between His Majesty in respect of the United Kingdom and the President of the French Republic with regard to the termination of British extraterritorial rights in the French Zone of Morocco, I have the honor, on behalf of His Majesty's Government in Australia, to inform your Excellency that His Majesty's Government in Australia accept the provisions of the said convention on the understanding that they claim under the convention the same rights as His Majesty's Government in the United Kingdom.

I have, &c.

ANTHONY EDEN

[11] Extraterritorial rights in the French Zone of Morocco have also been renounced by the Governments of Canada, New Zealand, the Union of South Africa, Ireland and India under similar conditions.

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